Office-Supreme Court, U.S.
FILED
SEP 7 1983
ALEXANDER L. STEVAS,
CLERK

83 399

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

Paul Loveday and Californians for Smoking and No Smoking Sections, Petitioners

v.

Federal Communications Commission and the United States

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PAUL L. LOVEDAY
55 Francisco, 7th Floor
San Francisco, CA 94133
(415) 955-0733
Attorney for Petitioners

QUESTIONS PRESENTED

Section 317(a)(1) of the Communications Act of 1934 requires a broadcast licensee, when it broadcasts a paid advertisement, to identify the person who, "directly or indirectly," paid for the advertisement. Section 317(c) of the Act requires a licensee to "exercise reasonable diligence" to obtain the information necessary to make such announcement. The questions presented are:

1. Whether, under Section 317 and the Federal Communication Commission's implementing regulations, a licensee that broadcasts a political advertisement with knowledge that it was paid for indirectly by the tobacco industry may lawfully announce that it was paid for by "Californians for Regulatory Excess," from whom it directly received the payment.

2. Whether, if knowledge of the indirect source of payment does not itself trigger the identification requirement, a licensee with information suggesting the indirect source of

payment also exercises editorial control over the content of the advertisements fulfills its duty of "reasonable diligence" by accepting without further action conclusionary assurances from the direct source that it controls the content of the advertisements.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	1
OPINIONS BELOW	3
JURISDICTION	4
STATUTES AND REGULATIONS INVOLVED	4
STATEMENT	7
A. BACKGROUND	7
1. Proposition 5	7
2. Proposition 10	10
B. PROCEEDINGS BEFORE THE FCC	18
C. PROCEEDINGS BEFORE THE COURT OF APPEALS	20
REASONS FOR GRANTING THE WRIT	22
1. The Importance of the Questions Presented	22
2. First Question Presented	25
3. Second Question Presented	28
(a) Type of Investigation Required	29
(b) Legislative History	32
(c) Regulatory History	42
CONCLUSION	46

TABLE OF CONTENTS
(Continued)

		Page
APPENDIX		
A.	Court of Appeals Decision	1
B.	FCC Decision	35a
C.	Pages 37-47 of Petitioners' Opening Brief in the Court of Appeals Showing that the Board of Directors of Californians Against Regulatory Excess had no editorial control over No on 10 advertisements	60a
D.	Letters from Yes on 10 to Stations	
	(1) Letter dated September 26, 1980 from Yes on 10 counsel to stations	78a
	(2) Letter dated October 3, 1980 from Yes on 10 counsel to stations	85a
E.	Letters from No on 10 to Stations	
	(1) Letter dated October 2, 1980 from No on 10 Chairman to stations	91a
	(2) Letter dated October 13, 1980 from No on 10 counsel to CBS, Inc.	98a

TABLE OF CONTENTS
(Continued)

		Page
F.	Declaration of Patricia Leddy, former media consultant to the Tobacco Institute, showing that the Tobacco Institute had editorial control over No on 10 advertisements	103a

TABLE OF AUTHORITIES

	Page
CASES AND ADMINISTRATIVE ADJUDICATIONS	
Albuquerque Broadcasting Co., 40 FCC 1 (1946)	35,36, 37,40
Erlandson v. C.I.R., 227 F.2d 70 (9th Cir. 1960)	27
First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978)	24,25
In re KOOL-TV, 26 FCC 2d 22 42 (1970)	
In re Request for Declaratory Ruling of Paul Loveday and Californians for Smoking and No Smoking Sections, 87 FCC 2d 492 (1981)	4,19, 20,26
In re Violation of Section 317 of the Communications Act, KSTP, Inc., 40 FCC 12 (1958)	35-39
Lorillard v. Pons, 434 U.S. 575 (1978)	40
Loveday v. FCC, 707 F.2d 3,20, 1443 (D.C. Cir. 1983)	21,22 31,38
Scafidi v. Western Loan Building Co., 165 P.2d 260 (Cal App. 1946)	42
United States v. WHAS-TV, Inc., 385 F.2d 784 (6th Cir. 1967)	43,44

TABLE OF AUTHORITIES
(Continued)

	Page
VOTER, 46 RR 2d (P&F) 350 (1979)	19-20, 22
STATUTE	
Communications Act of 1934, Section 317, 47 U.S.C. 317	1,4,5, 18,26-29,31-33,35, 37-40
LEGISLATIVE HISTORY	
House Report No. 1800, 86th Cong., 2d Sess., reprinted in (1960) U.S. Code Cong. & Ad. News at 3527	39
Letter dated May 20, 1960 from FCC Chairman Ford to Hon. Oren Harris printed in (1960) U.S. Code Cong. & Ad. News at 3539	41-42
To Regulate Radio Communications, Hearings on H.R. 7357 Before the Committee on the Merchant Marine and Fisheries, House of Representatives, 67th Cong., 1st Sess. on H.R. 5589, January 6,7,14 and 15, 1926	33-34
S. Rep. No. 1857, 86th Cong., 2d Sess., at 6, (1960)	41
67 Cong. Rec. 5514 (March 13, 1926	34

TABLE OF AUTHORITIES
(Continued)

	Page
REGULATIONS AND ADMINISTRATIVE INTERPRETATIONS	
47 CFR 73.1212	5,6,27, 36,41-42,44-45
FCC Rule 3.409 (the "1944 Rule) announced in 9 Federal Register 14734 (December 19, 1944)	35,36, 39,40
In re Applicability of Sponsorship Identification Rules, 40 FCC 141	22
Federal Register, Vol. 40, No. 82, at 18395	43,45
34 FCC 2d 1105	44-45
40 FCC 2,3	22
TREATISE	
Sands, Sutherland Statutory Construction (4th ed. 1973)	34

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

Paul Loveday and Californians for Smoking and No Smoking Sections, Petitioners,

v.

Federal Communications Commission and the United States

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Paul Loveday and Californians For Smoking and No Smoking Sections ("Yes on 10") petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the District of Columbia Circuit affirming an order of the Federal Communications Commission ("FCC").

OPINIONS BELOW

The opinion of the Court of Appeals (App. A, p. 1a)[1] is reported at 707 F.2d 1443 (D.C.

---

[1] "App." refers to the Appendix to this Petition.

Cir. 1983). The memorandum opinion by the FCC's Broadcast Bureau dated October 30, 1980 is attached to the FCC's Order (App. B, p. 35a) which is reported at 87 FCC 2d 492 (1981).

JURISDICTION

The judgment of the Court of Appeals was entered on May 10, 1983. Mr. Justice Brennan extended the time for filing this Petition to September 7, 1983. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATUES AND REGULATIONS INVOLVED

Section 317 of the Communications Act of 1934 (the "Act"), 47 U.S.C. 317, provides in pertinent part:

> **(a)(1)** All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished as the case may be, by such person: Provided, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a

broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.

(2) Nothing in this section shall preclude the Commission from requiring that an appropriate announcement shall be made at the time of the broadcast in the case of any political program or any program involving the discussion of any controversial issue for which any films, records, transcriptions, talent, scripts, or other material or service of any kind have been furnished without charge or at a nominal charge, directly or indirectly, as an inducement to the broadcast of such program.

. . . .

(c) The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section.

. . . .

(e) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

The applicable regulation is 47 CFR Section 73.1212, which provides in pertinent part:

(a) When a broadcast station transmits any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce (1) that such matter is sponsored, paid for, or furnished, either in whole or in part, and (2) by whom or on whose behalf such consideration was supplied:

. . .

(b) The licensee of each broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any matter for broadcast, information to enable such licensee to make the announcement required by this section.

. . . .

(e) The announcement required by this section shall, in addition to stating the fact that the broadcast matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unicorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or other valuable consideration is received, or by whom the material services referred to in paragraph (d) of this section are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a

station on behalf of another, and such fact is known or by the exercise of reasonable diligence, as specified in paragraph (b) of this section, could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent.

STATEMENT

A. BACKGROUND

This case arises from two California ballot proposition campaigns to create smoking and no smoking sections in certain indoor places--Proposition 5 on the November 1978 California ballot and Proposition 10 on the November 1980 California ballot.

1. Proposition 5

The Tobacco Institute, the political arm of the tobacco industry, retained Woodward, McDowell & Larson to manage the No on 5 campaign. (J.A. 16)[2] Cognizant of the fact that widespread public knowledge of the tobacco industry involvement would damage the credibility of the No on 5 campaign, the Tobacco

---

[2] "J.A." refers to the Joint Appendix in the Court of Appeals, a copy of which has been lodged with the Clerk of this Court.

Institute and its campaign manager took numerous steps to disguise and deny tobacco industry involvement. (J.A. 21-22, 41A-54) The most important steps were (i) the creation of "Californians for Common Sense," a nonprofit California corporation through which the cigarette manufacturers funneled $6.4 million against Proposition 5, and (ii) the use of the Tagline of "Paid for by Californians for Common Sense" at the close of each broadcast advertisement against Proposition 5.

The attempt to disguise tobacco industry involvement was not wholly successful because of record spending by the industry.[3] Funded by a supply of dollars that no California political campaign has seen before or since, No on 5 commenced its unprecedented media blitz in July of 1978, four months before the election, and continued its statewide advertising efforts every day until the

---

[3]The tobacco industry's spending exceeded the combined spending by both candidates for California Governor in the same election. (J.A. 14).

November election. The September 23, 1978 campaign finance disclosure statement (required by the California Fair Political Practices Act) showed that, at a time when most campaigns were just beginning their spending, more than $3 million had already been transferred to Californians for Common Sense and that 99.6% of such money came from the tobacco industry. (J.A. 297-355). This revelation created an understandable sensation and was widely reported.

The spending of so much money so early in the campaign was proven to have been a major tactical mistake. Independent research disclosed by the renowned California pollster Mervin Field after the 1978 election found that public knowledge of the tobacco industry's involvement and spending reduced the credibility of the No on 5 campaign and almost caused the tobacco industry to lose the election. (J.A. 55) Indeed, Mervin Field opined that "if the tobacco industry had spent

a couple more million dollars, it might have lost the election." (Id.)

2. **Proposition 10**

Cognizant that awareness of tobacco industry sponsorship of the No on 5 campaign had almost caused it to lose the 1978 election, the tobacco industry in 1980 implemented a far more sophisticated scheme to conceal its sponsorship of the No on 10 campaign. The Tobacco Institute retained Robert Nelson and Associates, Inc. (consisting of Robert Nelson and Eileen Padberg) to manage the No on 10 campaign. (App. C, pp. 61a-63a and App. F, pp. 103a-110a) Attorneys retained by the cigarette manufacturers incorporated Californians Against Regulatory Excess (hereinafter sometimes "No on 10") on June 12, 1980 . (J.A. 83) Thereafter, Robert Nelson and Eileen Padberg recruited several Californians to sit on the Board of Directors of No on 10. (App. C, pp. 61a-63a)

No on 10 purchased advertising air time from September 30 through election day on 50 television stations and 105 radio stations

(J.A. 89-90), and paid for this time with the $2.7 million contributed by four cigarette manufacturers in proportion to each manufacturer's relative share of the tobacco market:[4]

1980 No on 10 Campaign

Company	Relative 1979 Market Share Among Contributing Companies	% of Cash Contributions Among Contributing Companies
Brown & Williamson Tobacco Company	16.8%	16.8%
Lorillard	11.4%	11.6%
R.J. Reynolds Tobacco	38.1%	37.9%
Philip Morris	33.6%	33.7%

Each No on 10 ad closed with a Tagline of "Paid for by Californians Against Regulatory Excess."

Petitioners in two letters, which are attached hereto as App. D, pp. 78a-90a, notified all California broadcast stations of their obligations under Section 317 and provided the stations with easily verifi-

---

[4]The data on which the figures are based are contained in the March 1980 issue of the Tobacco Reporter (J.A. 108-110) and the No on 10 campaign financing disclosure statement as of October 20, 1980 (J.A. 209-220).

able facts which outlined the tobacco industry's scheme to deceive the voters and the motive for such scheme. The letters informed the stations that:

1. During the Proposition 5 campaign 99.4% of the $6.4 million spent against that campaign came from the tobacco industry.

2. Mervin Fields's polling research caused him to conclude that

> . . .with Proposition 5, the fact that the tobacco industry was spending as much as it was to defeat it, became an issue. There was sort of a counter trend in the closing days of the campaign. If the tobacco industry had spent a couple million more dollars, it might have lost the election.

3. In order to prevent tobacco industry spending from becoming an issue in the Proposition 10 campaign, the tobacco industry implemented a calculated policy to deceive as many voters as possible about tobacco industry involvement and spending by:

(a) utilizing a front organization with the name Californians Against Regulatory Excess;

(b) causing its campaign managers to make numerous public and private statements either to the effect that the tobacco industry would not be involved in the Proposition 10 campaign or that it was uncertain whether the tobacco industry would be involved;

(c) causing its campaign managers to represent publicly that Californians Against Regulatory Excess could run a viable campaign without tobacco money;

(d) hiring Woodward, McDowell and Larson to write and produce ads against Proposition 10. The letter noted that the same firm had written and produced the ads against Proposition 5;

(e) utilizing a Tagline in those ads of "Paid for by Californians Against Regulatory Excess";

(f) refraining from spending any money on advertising against Proposition 10 until September 24, 1980, the day after the cut-off date for disclosing campaign expendi-

tures to the California Fair Political Practices Commission ("FPPC"). The letter noted that under California law subsequent contributors and expenditures need not be reported until 10 days before the election; and

(g) transferring very large amounts to Californians Against Regulatory Excess promptly after September 23 and causing Californians Against Regulatory Excess to buy approximately $1 million of air time in the 10 days after September 23. The first letter noted that these air time buys cost far more than No on 10's resources as reported in its September 23 campaign finance disclosure statement. Such statement had shown only a few thousand dollars of cash on hand.

4. The campaign spending disclosure statement as of September 23 reported that 98% of the money transferred to Excess ($378,262 of a total of $389,099) came directly from the tobacco industry.

5. The campaign spending disclosure statement (together with copies of mailings

from the No on 10 campaign in the hands of Yes on 10) reveal that the small sums given to the No on 10 campaign from non-tobacco sources resulted from a mailing financed by the tobacco industry. The mailing requested each recipient to make a contribution of only $3.00 to No on 10. Direct mail fundraising experts have advised Yes on 10 that, given the economics of direct mail, such a mailing would have resulted in a net loss and that the sole purpose of such a mailing could only be for the political purpose of enabling Californians Against Regulatory Excess to claim that it has received numerous small contributions.[5]

The letters urged the stations to exercise reasonable diligence to confirm the

---

[5] See J.A. 94 and 101-102 for documentation of these facts. The campaign finance disclosure statements show that No on 10 received $7,837 in direct mail contributions. Since this amount was dwarfed by the moneys spent to raise that sum, it cannot be claimed that any part of that $7,837 was used for the purchase of air time. Thus, 100% of the moneys used to buy No on 10 air time was quite literally paid for by the tobacco industry.

facts set forth therein and asked them to change the Taglines on No on 10 ads.

The scheme outlined in the letters was successful. Whereas there had been prominent and frequent reporting of tobacco industry spending by both the print and broadcast media during the Proposition 5 campaign, the few reports of tobacco industry spending against Proposition 10 were generally buried in the back pages of the newspapers.

The No on 10 campaign responded with letters (App. E, pp. 91a-102a) to the stations which confirmed Petitioners' allegations about the tobacco industry funding of No on 10. A copy of the contribution pages of the No on 10 campaign finance disclosure statement as of September 23 was attached to one of those letters. The No on 10 letters argued that tobacco industry funding was irrelevant since the tobacco industry did not control the campaign:

> The leadership and direction for the Committee vests in its Board of Directors, whose names and titles are set forth on the enclosed brochure.

> This Board meets weekly, makes decisions and supervises the campaign management firm, Robert Nelson and Associates, Inc., which has been retained by the Committee to educate the voters on Proposition 10. (App. E, p. 99a)

Documents and admissions provided by No on 10 counsel to the Federal Communications Commission prove all the above-quoted representations to be false. (App. C, pp. 60a-77a) The No on 10 Board members whom Nelson and Padberg recruited were mere figureheads. One denied being a Board member. (J.A. 160) The Board members did not formulate campaign policy, did not select the campaign manager, and did not select the No on 10 advertising firm. (App. C, pp. 60a-77a) Board members were not consulted regarding campaign decisions, but were merely "updated" about those decisions after they were made and implemented. (App. C, pp. 66a-67a) Most important, Board members did not control or even have input regarding the content of No on 10 advertising (App. C, pp. 69a-71a) A declaration from a media consultant retained by

the Tobacco Institute proves that the Tobacco Institute exercised direct editorial control of No on 10 ads. (App. F, pp. 103a-110a)

Of the 155 stations notified of easily verifiable facts and their duties of due diligence, 144 did absolutely nothing. Eleven stations made minimal pro forma inquiries which consisted of (i) writing one letter or making one or two telephone calls to attorneys or other agents of No on 10 and (ii) then unreasonably relying on false statements by No on 10 representatives that policy was determined by the No on 10 Board of Directors or on false assurances that "no Tobacco Industry money was involved." (J.A. 132-136)

B. PROCEEDINGS BEFORE THE FCC

When the stations refused to act, Petitioners requested on October 16, 1980 a Declaratory Ruling from the FCC that the stations had violated Section 317. The Opposition filed by counsel to No on 10 admitted that "the funding that has been received so far come

(sic) from tobacco companies," but denied "that the source of contributions alone dictates the identification requirement." (J.A. 145) Counsel to No on 10 argued that No on 10's Board of Directors was a "working board" which exercised "direction and control over its own advertising," and denied that the cigarette manufacturers had any control over No on 10 advertising. (Id.)

The FCC's Broadcast Bureau, acting under delegated authority, expressly found that "substantially all or 'virtually 100%' of (No on 10's) funds have come from the four major tobacco companies." (App. B, p. 53a) The Bureau did not consider that this fact by itself was sufficient to trigger the identification requirement of Section 317(a)(1). Instead, without making findings of fact in support of its conclusions and without explaining why it was changing prior policies carefully, consistently and repeatedly articulated for almost 40 years until the FCC's equally deficient decision in VOTER, 46 RR 2d

(P & F) 350 (1979), the Bureau stated that VOTER was "dispositive" and summarily denied Petitioners' request because purportedly

> there has not been any conclusive[6] evidence which establishes that the tobacco companies are exercising editorial control over (No on 10) advertisements. (App. B, p. 53a)

Implicit in the Bureau's decision was that the indirect source of payment need not be identified.

Notwithstanding the total inaction by 144 stations and the minimal pro forma actions by 11 stations, the Bureau stated

> there has been no evidence that the California broadcast station licensees have dismissed this matter without exercising reasonable diligence to ascertain the true sponsor. (Id.)

C. PROCEEDINGS BEFORE THE COURT OF APPEALS

The Court of Appeals affirmed the FCC's decision. The court did not consider whether

---

[6] In summarily disposing of Petitioners' appeal after the election, the full Commission deleted the word "conclusive" from the Broadcast Bureau's conclusion. The full Commission's one paragraph order makes it clear, however, that it failed to apply a different standard to the evidence.

the indirect source of payment requires identification. Indeed, the court failed to address Petitioners' contention that a showing of tobacco industry "control" of No on 10 ads was unnecessary because the undisputed fact that 100% of the No on 10 advertising was paid for by the tobacco industry is in itself sufficient to require identification of the tobacco industry as "sponsor". Instead, the court focused solely on whether "the licensees were required to inquire further into the actual sponsorship of the political advertisements." (App. A, p. 3a) The court held that "a licensee confronted with undocumented allegations and an undocumented rebuttal may safely accept the apparent sponsor's representations that he is the real party in interest." (App. A, p. 11a) The court held the Act does not require "the Commission to impose upon licensees a duty to investigate when they receive conflicting representations of the type involved here," (App. A, p. 28a) and that "a licensee need not go behind the information it

receives (from the direct source of payment) to guaranty its accuracy." (App. A, p. 25a, n. 18).

The Court of Appeals also argued that to impose a duty on stations to ask further questions "would be to create an administrative quagmire, to establish standards so variable as to invite abuse, and to raise possible constitutional questions." (App. A, p.29a)

REASONS FOR GRANTING THE WRIT

1. The Importance of the Questions Presented

The question as to whether wealthy special interests may disguise their sponsorship of broadcast political advertisements and prevent the public from knowing "by whom they are being persuaded"[7] is of fundamental importance to the functioning of our democracy and should be resolved by this Court. Leaving

---

[7] The FCC has pronounced in numerous statements over a 30 year period that Section 317's purpose is to enable listeners to know by whom they are being persuaded. See 40 FCC at 2, 40 FCC at 141, 26 FCC 2d at 42 and 97 FCC 2d at 496.

undisturbed the Court of Appeals' decision will have a continuing and substantial effect on future political broadcasting and will abrogate the public's right to know the source of political advertising.

Professional opinion polls demonstrate that the source of advertising as identified in Taglines influences voters and is crucial to election results. The Roper Organization's 1978 poll for the Tobacco Institute found that "favorable attitudes toward the Tobacco Institute are at their lowest ebb." (J.A. 62) A 1980 poll by Fairbanks/Canapary/-Maullin determined that 67.2% of Californians would be less likely to vote for a ballot proposition endorsed by the tobacco industry. Only 4.2% would be more likely to vote for a tobacco industry endorsed measure. On the other hand 70.9% would be more likely to vote for or be indifferent to a measure endorsed by Californians Against Regulatory Excess. Only 28.9% would be less likely to vote for a Californians Against Regulatory Excess endorsed

measure. (J.A. 150-151) A poll commissioned by the Tobacco Institute to guide the campaign against Measure A (a 1982 ballot initiative to enact a smoking and no smoking sections ordinance in Bakersfield, California) indicated that public awareness of the tobacco industry's association with the No on A campaign would drive a substantial number of voters into the "yes" column. (App. F, p. 105a)

Moreover, the Court of Appeal's decision destroys one of this Court's important justifications in First National Bank of Boston v. Belotti, 435 U.S. 765 (1978) for overturning state law prohibitations on corporate advertising in political campaigns such as Proposition 10. In Bellotti this court justified its action due to its confidence in the people's ability to evaluate the "relative merits of conflicting arguments" in part because the people would be aware of the "source and credibility of the advocate." 435 U.S. at 791. The court stated that

> Corporate advertising. . . . is likely to be highly visible. Identi-

> fication of the source of advertising may be required as a means of disclosure, so that the people will be able to evaluate the arguments to which they are being subjected.[8] Id. at 791 n. 31.

Because the cigarette manufacturers recognized the ability of the people to evaluate the merits of conflicting arguments if they are aware of the "source and credibility of the advocate," the cigarette manufacturers caused Californians Against Regulatory Excess to be formed and ads to be placed with deceptive Taglines for the express purpose of hiding the "source and credibility of the advocate."

2. **First Question Presented**

Section 317(a)(1) requires a station to identify the source of advertising payments whether made directly or indirectly. There has never been any question in this case that

---

[8] It should be noted that this Court's statement that "identification of the source of advertising may be required" directly contradicts the Court of Appeals' suggestion that Petitioners' position may violate the First Amendment.

indirect payments came from four cigarette manufacturers. Petitioners' easily verifiable statements that virtually all of No on 10's funds came from the tobacco industry was not contested by No on 10 and was tactily admitted in No on 10's letters to the stations. A letter from No on 10's counsel to CBS, Inc. enclosed a copy of No on 10's campaign finance disclosure statement. The FCC specifically found that "it has been shown that substantially all or 'virtually 100%' of (No on 10's) funds have come from the four major tobacco companies, a fact that (No on 10) readily admits in its response." (App. B, p. 53a)

Common sense dictates that four corporations which pay 100% of the cost of political campaign advertising in proportion to their respective shares of the tobacco market control that advertising and are the sponsors of it. This Court, however, need not rely on common sense alone. The plain terms of Section 317(a)(1) requires that "all matter broadcast by any radio station for which any

money. . . is directly or indirectly paid to...the station so broadcasting, from any person, shall. . . be announced as paid for...by such person." (Emphasis added) The FCC Regulations confirm that indirect payment for No on 10 ads by the tobacco companies make them the sponsor of those ads irrespective of any showing of editorial control:

> Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence. . . could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent. 47 CFR 73.1212(e)

47 CFR 73.1212(a)(i) presumes that the party which pays for an advertisement controls advertising policy, as "sponsored" is defined as follows:

> For the purposes of this section the term "sponsored" shall be deemed to have the same meaning as "paid for".

Erlandson v. C.I.R., 227 F.2d 70 (9th Cir. 1960), demonstrates that the tobacco industry "paid for" No on 10 advertising even though the

money flowed through the bank account of Californians Against Regulatory Excess before reaching the broadcast stations. Californians Against Regulatory Excess was but a conduit for the payment of advertising costs by the tobacco industry to broadcast stations. The tobacco industry "paid for" 100% of the advertising and was therefore the "sponsor" of such advertising.

Although this issue was directly raised by Petitioners, the Court of Appeals did not address the issue. The Court of Appeals decision, however, does resolve the issue.

3. **Second Question Presented**

Even if the undisputed fact of 100% funding by the tobacco companies is not sufficient by itself to require identification of the tobacco companies as the sponsor of the No on 10 ads, the legislative and regulatory history of Section 317 make clear that there was sufficient evidence before the stations to require them to do more than passively accept No on 10's false assurances that the tobacco

companies did not control No on 10 ads.

Section 317(c) requires a licensee to "exercise reasonable diligence" to obtain the information necessary to make the appropriate sponsorship announcement. The FCC's interpretation of Section 317(a)(1), which interpretation was incorporated into the Act by Congress' 1960 amendment to Section 317, requires the stations to exercise the "highest degree of diligence" to ascertain and announce the "true identity" of the source of funds and to perform an "arduous" investigation if necessary.

(a) Type of Investigations Required

However, no such arduous investigation would have been necessary during the Proposition 10 campaign. The California stations could have determined that Yes on 10's allegations were true, that No on 10's assurances were false, and that the tobacco industry had editorial control of the No on 10 ads by easily performed investigations that required no more than:

1. requesting copies of minutes of meetings of the Californians Against Regulatory Excess Board of Directors. Had such minutes been requested, the stations would have determined that the No on 10 Board members exercised no "control" whatsoever over No on 10 advertising;

2. asked Californians Against Regulatory Excess for documents, correspondence and records of contacts by it, its campaign manager and its advertising firm with any of the four major cigarette manufactuers and the Tobacco Institute;

3. interviewing any No on 10 Board member or asking No on 10 for a specific example of the exercise of "control" by No on 10 Board members;

4. asking questions or requesting documents regarding the hiring of the No on 10 advertising firm. Had the stations done so, they would have determined the No on 10 Board had no "control" over the advertisements written and produced by Woodward, McDowell &

Larson; and

5. asking No on 10 for explanations of Petitioners specific allegations of dishonesty by No on 10 spokespersons.[9]

The Court of Appeals holding that not even the minimal investigation outlined above is required by the stations until parties such as Yes on 10 prove or "make so strong a circumstantial case that someone other than the named sponsor is the real sponsor" (App. A, p. 34a) means for all practical purposes that Section 317 is effectively repealed. Yes on 10 and similarly situated parties have no access to the books and records of special interests

---

[9]All these questions and requests could have been directed to Californians Against Regulatory Excess. Such inquiries would not have constituted what the Court of Appeals terms "a full-scale investigation." (App. A, p. 13a). It should be noted each of the above-stated recommended questions and requests for documents were suggested on page 19 and again on page 60 of Petitioners' Opening Brief in the Court of Appeals. Petitioners are therefore confused by the Court of Appeals' statement that "Petitioners have been rather indefinite about what the California broadcasters were required to do when confronted by (Petitioners') allegations and (No on 10's) counter-allegations." (App. A, p. 29a)

or their campaign organizations and have no power to depose witnesses under oath. Gathering the evidence necessary to meet such a burden of proof in the 30-60 day period between commencement of a special interest political advertising campaign and election day is in all but rare cases a practical impossibility.

(b) **Legislative History**

The Court of Appeals holding that total inactivity by the stations was justified rests on an incorrect analysis of Congressional intent. The legislative history of Section 317 compels, rather than undercuts, an interpretation that required stations in this case to investigate sponsorship.

The history of Section 317 demonstrates the accuracy of the FCC's oft-repeated proclamation that Section 317's purpose is to enable listeners and viewers to know by whom they are being persuaded. Section 317(a)(1) traces its lineage to Section 19 of the Radio Act of 1927. As originally introduced, the relevant section of the bill which

became the Radio Act of 1927 would solely have prevented disguised advertising and would merely have required that advertising material be clearly identified as such.[10] However, the House Committee discarded this language and its narrow purpose and adopted without substantial change language drafted by Mr. Herbert Smith of National Carbon Co. Mr. Smith argued persuasively that his draft (which today is Section 317(a)(1) of the Act down to the proviso) would accomplish that which was really needed--"that is to identify the source (of advertising)." (Radio Act Hearings at p. 82) He argued forcefully that identification of the source of payment for broadcast matter was more important than merely designating advertising as such:

> Do you not think that where propaganda is, as you suggest, insidious,

---

[10] To Regulate Radio Communications, Hearings on H.R. 7357 Before the Committee on the Merchant Marine and Fisheries, House of Representatives, 69th Cong., 1st Sess. on H.R. 5589, January 6, 7, 14 and 15, 1926 (hereinafter called "Radio Act Hearings) at p. 5.

> where the source of it is not known at all, that by a catch-all paragraph, such as has been suggested, that by the announcement that the feature is sponsored by, or paid for by, or provided by, and so forth, naming the source, that you immediately destroy its effect as insidious propaganda? (Emphasis added) Radio Act Hearings at p. 85.

The full Congress clearly agreed with Mr. Herbert Smith. An amendment proposed on the floor of the House would have changed the relevant section back to a mere prohibition of disguised advertising. (67 Cong. Rec. at 5574, March 13, 1926) The amendment failed Id., and the Congress passed Mr. Smith's language which was intended to disclose to listeners the source of broadcast advertising.

It is an ancient wisdom that statutes should be interpreted so as to effectuate their manifested purpose or object.[11] Given Congress' purpose to destroy the effect of "insidious propaganda" by requiring identification of the "source" of advertising,

---

[11] See Sands, Sutherland Statutory Construction, Section 58.06 (4th ed. 1973) and the ancient and modern cases cited therein.

Congress' purpose is frustrated by a holding that a station, which has been put on notice by a recitation of detailed though undocumented facts that its customer is engaging in a scheme to disguise the source of its advertising, has no duty whatsoever to investigate such source.

This Court need not rely solely on rules of statutory construction, however, since Congress' 1960 amendment of Section 317 explicitly incorporated the then prevailing FCC interpretation of a station's duty to investigate the source. Such interpretation consisted of (i) a FCC rule adopted in 1944 (the "1944 Rule"), (ii) the FCC's 1946 interpretation of the 1944 Rule in Albuquerque Broadcasting Co. 40 FCC 1 (1946), and (iii) a series of opinions (the "NAM Opinions") rendered between 1958 and 1960 in which the FCC held that, with respect to political material supplied to a station, "the highest degree of diligence is called for in ascertaining before presentation thereof, the actual source responsible for furnishing the material. (In re Violation of Section 317

of the Communications Act, KSTP, Inc., 40 FCC 12, 14 (1958)). (Emphasis added).

Section (c) of the 1944 Rule (which, as amended, is currently 47 CFR 73.1212(e)) required that a Tagline disclose the "true identity" of the party by whom the public is being persuaded and declared that merely identifying the agent of the real party in interest is insufficient.

In Albuquerque Broadcasting the FCC interpreted "the nature of the burden of investigation" imposed by Section 317 and the 1944 Rule. The FCC made it clear that the sending of one letter or the making of one or two telephone calls to the purported sponsor did not fulfill a station's duty of investigation for "it is incumbant upon it to take all reasonable measures in this connection." 40 FCC 1. The FCC left no doubt that a station's mere reliance on conclusionary letters from the purported sponsor was insufficient diligence, for it stated that "an independent investigation is necessary" in particular cases. Id.

The FCC noted that "a broadcast station may experience some problems in fulfilling its responsibility under Section 317," and noted that this duty to discover the true identity of the real party in interest sometimes "places an arduous task on management." Id. Moreover, Albuquerque Broadcasting makes clear that an investigation was necessary in the instant case because the California stations were on notice that (i) Californians Against Regulatory Excess represented itself as a poor grass roots organization unable to buy air time and (ii) campaign disclosure statements showed Californians Against Regulatory Excess with only modest cash on hand at the time it was arranging a huge media buy. Albuquerque Broadcasting states:

> If a speaker desires to purchase time at a cost apparently disproportionate to his personal ability to pay, a licensee should make an investigation of the source of funds to be used for payment. 40 FCC 1.

The NAM Opinions, 40 FCC 12-65, involved stations airing political material prepared by station WTTG, but paid for by the

National Association of Manufacturers (the "NAM"). At the direction of the NAM, WTTG distributed the political material to numerous stations which aired the material without identifying the NAM as the source. When investigated by the FCC, the stations protested that the script accompanying the films stated merely that they were produced by WTTG, that it was reasonable to have believed that WTTG was the source of the materials, and that the stations had no actual knowledge that the NAM was the real sponsor. The FCC held in each of the enforcement proceedings that the stations had violated Section 317,[12] that such

---

[12] The Court of Appeals' attempt to distinguish the NAM Opinions is flawed. The court writes that "the Commission's pronouncement was made in the context of licensee failure to make any announcement at all and thus does not indicate the extent of licensee responsibility to reject an identification provided by the party who supplied the material". (App. A, p. 24, n. 17) The FCC's focus in the NAM cases was not on the failure to provide Taglines. The FCC focused on the stations' failure to investigate, ascertain and announce the real party in interest notwithstanding the submission by WTTG of facially plausible information to support a conclusion that WTTG was the sponsor. It is clear that the FCC's holdings would not have been altered had the violators announced that WTTG was the sponsor of the material.

uncritical reliance on the statement of WTTG did not even fulfill a station's duty of "reasonable diligence to ascertain the true sponsor and source of (nonpolitical) material," and that with respect to material constituting political or controversial issues, the "highest degree of diligence" is required to ascertain the actual source. 40 FCC 14.

In 1960 Congress added several provisions to Section 317. The sponsorship identification provisions of the Radio Act of 1927 were re-enacted without change as Section 317(a)(1). Congress did, however, overrule a FCC interpretation with which Congress disagreed by adding a proviso to Section 317(a)(1). Since the above-referenced proviso standing alone may have raised doubts about the continued validity of the 1944 Rule, Congress also adopted Section 317(a)(2) for the express purpose of providing "specific statutory authority" for the substance of the 1944 Rule.[13] This Court has held that "Congress is

[13] House Report No. 1800, 86th Cong., 2d Sess., reprinted in (1960) U.S. Code Cong. & Ad. News at 3532.

presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change." Lorillard v. Pons, 434 US 575, 580 (1978). The presumption that Congress was aware of and adopted the FCC's interpretations set forth in Albuquerque Broadcasting and the NAM Opinions is immeasurably strengthened where, as here, Congress exhibited a detailed knowledge of the FCC interpretations and a willingness to overturn interpretations with which it disagreed. It is unlikely that Congress would have explicitly ratified the 1944 Rule without awareness of the two interpretations of that Rule, particularly since the NAM Opinions coincided with the period during which Congress conducted the investigations which preceeded the 1960 amendments to Section 317.

Congress' 1960 adoption of Section 317(c), which requires stations to use reasonable diligence to obtain information to enable it to identify advertising sponsors,

makes even more clear the erroneous nature of the Court of Appeals' holding that stations' total inactivity was justified. The Senate Report describes the reasonable diligence requirement as follows:

> The term "reasonable diligence" would require the licensee to take appropriate steps to secure such information, but it would not place a licensee in the position of being an insurer, nor does this condition permit a licensee to escape responsibility for sponsorship announcements by inactivity on his part. S. Rep. No. 1857, 86th Cong., 2d Sess. at 6 (1960).

Had the California stations taken proper steps to secure information about the source of No on 10 ads and nevertheless come to the wrong conclusion, Petitioners could not have criticized the stations. They are not insurers. In the instant case, however, 144 stations sought to escape responsibility by total inaction on their part.

The Court of Appeals also ignored FCC Chairman Ford's letter to the Congressional author of the 1960 amendment to Section 317 in response to the Congressman's question as to whether the amendment should

contain a definition of "reasonable diligence". Chairman Ford responded that no definition was needed since:

> We believe that the term "reasonable diligence" has a sufficiently accepted legal meaning so as to permit the Commission to apply this standard in given factual situations. (1960) U.S. Code Cong. & Ad. News at 3539

Chairman Ford undoubtedly had in mind cases such as Scafidi v. Western Loan and Building Co., 165 P.2d 260, 271 (Cal. App. 1946) wherein "reasonable diligence" in making inquiry is defined as the exercise of that degree of diligence "such as men of business usually exercise when their interest depends upon obtaining correct information." Had California stations decided that their own business interests depended upon correctly ascertaining the real party in interest with respect to the No on 10 ads, their investigations would have been substantially different.

(c) Regulatory History

The Court of Appeals did not consider the purpose of the affirmation of

a licensee's duty to investigate provided by the FCC's 1975 amendment of 47 CFR 73.1212(e)[14]

The 1975 amendment was made "because of the WHAS decision". Federal Register, Vol. 40, No. 82, at 18395. In United States v. WHAS-TV, Inc., 385 F.2d 784 (6th Cir. 1967), the FCC had held that station WHAS had violated Section 317 by allowing a political program which was really sponsored by the Breathitt gubernatorial campaign organization to carry a Tagline of "Paid for by the Committee for Good Government" (the "Committee"). The Committee was a legally formed entity separate from the Breatthitt

---

[14]The FCC's 1975 amendment added the following underlined language to the last sentence of 47 CFR 73.1212(e):

> Where an agent or another person contracts or otherwise makes arrangements with a station on behalf of another and such fact is known or by the exercise of reasonable diligence . . . could be known by the station, the announcement shall disclose the identity of the person or entity on whose behalf such agent is acting instead of the name of such agent.

campaign organization, but created and funded by the Breatthitt campaign. Like the tobacco industry and Californians Against Regulatory Excess, the Breathitt campaign transferred money to the Committee, and the Committee paid WHAS for the air time. The Sixth Circuit reversed the FCC because it believed the then FCC Regulations did not clearly require an investigation of the sponsor. The Sixth Circuit stated, however, that "we are by no means precluding the FCC from adopting a Regulation calculated to require a station to make reasonable efforts to go beyond a named 'sponsor' for a political program in order to ascertain the real party in interest for purposes of announcement." 385 F.2d at 788.

Upon adopting the 1975 amendment the FCC explained that its purpose was

> to clear up any misunderstanding about whether the statute and rules require a licensee, who knows, or has reason to know the facts, to adequately identify the person or persons paying for. . .the material broadcast. . . Where a political

> broadcast is presented. . .by a committee which is really a campaign instrumentality for a candidate or a political organization, the public must be made aware of the latter fact. 34 FCC 2d at 1105.

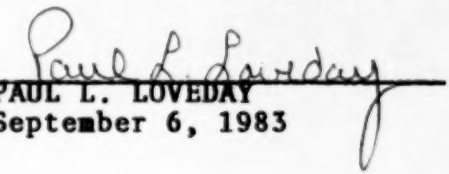
The duty of California stations to investigate the sponsor of No on 10 ads under 47 CFR 73.1212(e) is underscored by the FCC's rejection of National Broadcasting Corporation's ("NBC") 1975 argument that the amendment then under consideration would place an impossible investigative burden on licensees. In reply to NBC's rhetorical question as to how far a licensee must penetrate the political fund-raising process to ferret out the person or group who the FCC will deem to be the "principal" of the "agent", the FCC agreed that the amendment would indeed place some burdensome investigative duties on stations, but:

> Broadcasters are licensed to act as trustees for a valuable public resource and, in view of the public's paramount right to be informed, some administrative burdens must be imposed on the licensee in this area. These burdens simply run with the territory. Federal Register, Vol. 40, No. 82 at 18398.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



PAUL L. LOVEDAY
September 6, 1983

APPENDIX A

COURT OF APPEALS DECISION

Notice: This opinion is subject to formal revision before publication in the Federal Reporter or U.S.App.D.C. Reports. Users are requested to notify the Clerk of any formal errors in order that corrections may be made before the bound volumes go to press.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 81-2061

PAUL LOVEDAY and CALIFORNIANS FOR SMOKING AND NO SMOKING SECTIONS, PETITIONERS

v.

FEDERAL COMMUNICATIONS COMMISSION and UNITED STATES OF AMERICA, RESPONDENTS

Petition for Review of an Order of the Federal Communications Commission

---

Argued May 19, 1982

Decided May 10, 1983

Paul Loveday (*pro se*) for petitioners.

Cal P. Saunders, Attorney, Federal Communications Commission, with whom *Stephen A. Sharp*, General Counsel, *Daniel M. Armstrong*, Associate General Counsel, Federal Communications Commission, *David Silberman*, Attorney, Federal Communications Commission,

Bills of costs must be filed within 14 days after entry of judgment. The court looks with disfavor upon motions to file bills of costs out of time.

Robert B. Nicholson and *Neil R. Ellis*, Attorneys, Department of Justice, were on the brief, for respondents. *Mark C. Del Bianco*, Attorney, Department of Justice, also entered an appearance for respondents.

Before: MACKINNON, GINSBURG and BORK, *Circuit Judges*.

Opinion for the Court filed by *Circuit Judge* BORK.

BORK, *Circuit Judge*: The Communications Act of 1934, 47 U.S.C. § 317 (1976 & Supp. V 1981), and the regulations of the Federal Communications Commission, 47 C.F.R. § 73.1212 (1981), require licensed broadcast stations to identify the sponsors of paid political advertisements at the time those advertisements are broadcast. The licensee is under a duty, moreover, to make a reasonably diligent inquiry to learn, in order to identify, the true sponsor of the advertisements when the licensee has reason to think that it is someone other than the apparent sponsor. 47 U.S.C. § 317(c) (1976). This case concerns the scope of the licensees' duty to investigate.

Petitioners challenge the Commission's conclusion that California radio and television stations adequately discharged their obligation to investigate and to identify the true sponsor of political advertisements opposing an initiative before the voters of California on a 1980 referendum. Had the electorate approved that initiative, Proposition 10, the resulting law would have required separate smoking and no smoking areas in most enclosed public places, places of employment, and educational or health facilities. California voters rejected the proposition.

The advertisements in question were paid for by a political action committee called Californians Against Regulatory Excess ("Regulatory Excess" or "CARE"). Stations broadcasting the advertisements identified that committee as the sponsor. Petitioners, Paul Loveday

and a political action committee that supported the initiative, Californians for Smoking and No Smoking Sections (or "Yes on 10"), claim that they furnished the stations with sufficient information to require them either to identify the tobacco industry as the true sponsor or, at a minimum, to investigate more diligently. This court has jurisdiction to review the Commission's contrary decision under 47 U.S.C. § 402(a) (1976) and 28 U.S.C. §§ 2342, 2344 (1976).

We affirm because we conclude that, on these facts, the licensees were not required to inquire further into the actual sponsorship of the political advertisements. Indeed, we have substantial doubt that the Commission could require licensees to do more.

I.

A.

On September 26, 1980, Richard Kalish, a representative of Yes on 10 and an associate of petitioner Loveday, wrote to all California radio and television stations asserting that the tobacco industry was sponsoring Regulatory Excess' advertising campaign and was supplying Regulatory Excess with almost all of its funds. He pointed out that Regulatory Excess had, according to its recent campaign finance disclosure statement, been purchasing more radio and television time than its stated resources would permit. He also stated that the tobacco industry had provided almost all of the $6.5 million expended to defeat a similar proposition in 1978. These considerations, Kalish wrote, made it "apparent" that the tobacco industry was virtually the sole source of funds for Regulatory Excess' efforts. The letter directed the licensees' attention to Commission sponsorship identification provisions, which, according to Kalish, required the California licensees "both to discover and to disclose the fact of the Tobacco Industry's sponsorship of the advertising so the public can know 'by whom

it is being persuaded.'" Kalish argued that there was "affirmative deception" involved in identifying Regulatory Excess as a California entity when it received virtually all its funds from sources outside California. Kalish expressed the hope that the licensees would satisfy their sponsorship identification obligations without further prodding, but he also threatened to file a complaint with the Federal Communications Commission or to take other action should the stations fail to satisfy their sponsorship identification obligations. The letter did not document Kalish's allegations.

Receiving no response from any of the California stations, Kalish wrote to them again on October 3. His three-page letter reiterated and amplified both his claim that Regulatory Excess was an agent for the tobacco industry and his analysis of the sponsorship identification requirements.[1] These additional allegations were

---

[1] The new allegations Kalish offered were: (1) a pollster had concluded that, since tobacco industry spending for ads had become an issue in 1978 and had caused a backlash, the tobacco industry might have lost the Proposition 5 campaign if it had spent more money; (2) the tobacco industry had hired an advertising firm for Regulatory Excess; (3) the tobacco industry as part of its campaign had caused to be propagated "numerous public and private statements" to the effect that tobacco industry funding was not necessary for Regulatory Excess' operations and was probably not present; (4) the tobacco industry waited until the state campaign finance reporting deadline, September 23, had passed before financing any advertising for Regulatory Excess; (5) 98% of the $389,099 received by Regulatory Excess and reported in that September 23 statement came from the tobacco industry; (6) the small sum Regulatory Excess received from non-industry sources resulting from its mail solicitation, which was financed by the tobacco industry, was, according to direct-mail fundraising experts, outweighed by the cost of the mailing; (7) Regulatory Excess had purchased approximately $1 million of broadcast time since September 23; and (8) all but $3,000 of the money provided to Regulatory Excess by tobacco companies had come from non-California sources.

also undocumented. Kalish asked the stations to identify Regulatory Excess' advertisements as "Paid for by the Tobacco Industry" and warned that Yes on 10 would bring legal action against any stations that did not comply by October 8.

Regulatory Excess responded to Kalish's first letter by sending each licensee a letter from its chairman, David Bergland, outlining the committee's purpose, structure, and campaign efforts to date, as well as a legal memorandum concerning the sponsorship identification rules. In addition, some stations specifically requested an answer to Kalish's allegations from Regulatory Excess. Vigo Nielsen, counsel for Regulatory Excess, replied to at least some of these requests. Nielsen indicated that Regulatory Excess was not an agent for the tobacco industry. He declined to comment upon the tobacco industry's political motives or policies but acknowledged that various tobacco companies, after concluding that a "hands-off" approach might be interpreted as support for Proposition 10, had contributed to Regulatory Excess' campaign. Nielsen also noted that Regulatory Excess was just beginning the process of soliciting contributions from California voters. He dismissed Kalish's threatened legal actions as "diversionary tactics." Finally, he referred to the previously-provided memorandum giving his interpretation of the sponsorship identification requirements, and he appended a copy of the contribution section of Regulatory Excess' state campaign finance report.

According to petitioners, 58 of the 155 California stations that had broadcast commercials for Regulatory Excess replied to Kalish's letters, though only 11 of these stations addressed the sponsorship identification question. No licensee, apparently, stopped identifying the advertisements as paid for by Californians Against Regulatory Excess.

B.

On October 16, 1980, Loveday and Yes on 10 requested a declaratory ruling from the Federal Communications Commission. They alleged that the tobacco industry was the principal behind Regulatory Excess' campaign against Proposition 10 and claimed that the California licensees had failed to satisfy their sponsorship identification obligations. They asked the Commission to declare that the tagline "Paid for by Californians Against Regulatory Excess" violated these obligations and must be replaced by the words, "Paid for by the Tobacco Industry." Because the California vote was to occur only several weeks later, petitioners asked the Commission to give their petition expedited consideration.

Petitioners presented to the Commission, as they have presented to this court, an extensive recital of the factual basis for their charges. They also submitted a wide variety of exhibits, ranging from newspaper and trade journal articles to affidavits signed by Loveday. These submissions were designed to prove that the tobacco industry was the real sponsor of Regulatory Excess' advertisements. Whether that is true, however, is beside the point. The issue before the Commission was whether the licensees were put to a duty to identify the tobacco industry as the sponsor or to inquire further about possible parties behind Regulatory Excess. Petitioners' elaborate case before the Commission was not presented to the licensees. Any duty they may have had could arise only from Kalish's two letters and Regulatory Excess' reply.

The Commission asked Regulatory Excess for a response, and that committee replied to petitioners' application, in accordance with the Commission's request for expedition, on October 24, two days after receiving it. Regulatory Excess described its efforts to reply to the inquiries it had received from the California broadcasters regarding its relationship with the tobacco companies.

We need not detail that response, much of which went to the issue of the tobacco industry's control of Regulatory Excess, for the same reason that we do not set out petitioners' evidence.

C.

The Broadcast Bureau, acting under authority delegated by the Commission, 47 C.F.R. §§ 0.71, 0.281 (1980), denied petitioners' application on October 30. Letter from the Broadcast Bureau to Paul Loveday, JA at 2, *reported at In re Request for Declaratory Ruling of Paul Loveday and Californians for Smoking and No Smoking Sections*, 87 F.C.C.2d 492, 493 (1981). Identifying the issue as "whether the California broadcast station licensees have failed to exercise reasonable diligence to identify the sponsor of the CARE advertisements," *id.* at 496, the Bureau concluded that the stations had met their obligations. The Bureau further observed that the sponsorship identification requirements obligated a licensee to make a reasonably diligent effort to identify the sponsor of broadcast material but did not make a broadcaster an insurer of a sponsor's representations. *Id.* at 496-97. Relying upon an earlier decision, *VOTER*, 46 Rad. Reg. 2d (P & F) 350 (1979), a case similar to this one, the Bureau held that the California stations had acted reasonably. 87 F.C.C.2d at 497. The Bureau added, however, that a decision to attribute Regulatory Excess' commercials to the tobacco industry would have been equally reasonable. *Id.* Turning to the question of editorial control, the Bureau concluded that, despite petitioners' allegation, admitted by Regulatory Excess, that the tobacco companies had provided Regulatory Excess with virtually 100% of its funds, there was no "conclusive evidence" that the tobacco industry exercised editorial control over Regulatory Excess' advertising campaign. *Id.* Finally, the Bureau concluded that there was no evidence that the California licensees had dismissed this matter without exercising reasonable diligence to

learn whether the tobacco companies were exercising editorial control over Regulatory Excess. *Id.* at 497-98.

D.

Upon petitioners' application for review, the Commission affirmed the Bureau's decision. 87 F.C.C.2d at 492 (Order). The Commission noted that the Bureau's decision "was based primarily on a finding that the licensees did not act unreasonably," and it agreed with the Bureau that the information submitted by the parties did not demonstrate that the tobacco companies exercised editorial control over Regulatory Excess' advertisements. *Id.* The Commission modified the Bureau's ruling in only one respect; it struck the word "conclusive" from the Bureau's ruling in order to avoid the implication that the FCC would require a complainant conclusively to establish editorial control in cases like this. *Id.* The Commission accepted the Bureau's decision in all other respects and denied petitioners' application for review.

This petition followed.

II.

Though petitioners suggest a number of standards of review, the law on this subject is clear. The Broadcast Bureau and the Commission rendered their decisions under the authority given by 5 U.S.C. § 554(e) (1976) and 47 C.F.R. § 1.2 (1981) to "issue a declaratory ruling to terminate a controversy or remove uncertainty." The ruling challenged here was issued in a specific factual context and resolved only the issues presented by petitioners' application. This declaratory ruling therefore "belongs to the genre of adjudicatory rulings." *Chisholm* v. *FCC*, 538 F.2d 349, 364 n.30 (D.C. Cir.), *cert. denied*, 429 U.S. 890 (1976). *See FCC* v. *Pacifica Foundation*, 438 U.S. 726, 734 (1978). Petitioners have made no attempt to distinguish *Chisholm*. As a consequence, in reviewing the FCC decision, this court must ask, as we did

in *Chisholm*, whether the Commission's action was arbitrary, capricious, an abuse of discretion, or contrary to law.[2]

III.

Both the Communications Act and the Commission's regulations require that a broadcast licensee identify the sponsor of any paid matter transmitted and that the licensee "exercise reasonable diligence" to learn who the sponsor is.[3] This standard, according to petitioners, "re-

---

[2] In *Chisholm*, the FCC had issued a declaratory ruling, reversing a long-standing interpretation, that press conferences and debates between federal candidates were exempt from the equal time requirements of 47 U.S.C. § 315 (1976) in certain circumstances. We upheld that action by a 2-1 vote. The majority applied the "arbitrary and capricious" standard, 538 F.2d at 364, and the dissent did not take issue with the majority on this point. *Id.* at 366-96 (Wright, J., dissenting).

[3] Section 317 of the Communications Act, 47 U.S.C. § 317, provides in pertinent part:

> (a) (1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person: *Provided*, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.
>
> (2) Nothing in this section shall preclude the Commission from requiring that an appropriate announcement shall be made at the time of the broadcast in the case of any political program or any program involving the discussion of any controversial issue for which any films, records, transcriptions, talent, scripts, or other material or service of any kind have been furnished, without charge

quires the exertion of every effort" by licensees to identify the real sponsors of paid material that is broadcast. Peti-

---

or at a nominal charge, directly or indirectly, as an inducement to the broadcast of such program.

. . . .

(c) The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section.

. . . .

(e) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

The applicable regulation is 47 C.F.R. § 73.1212 (1980), which provides in pertinent part:

(a) When a broadcast station transmits any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce (1) that such matter is sponsored, paid for, or furnished, either in whole or in part, and (2) by whom or on whose behalf such consideration was supplied: . . . .

(b) The licensee of each broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any matter for broadcast, information to enable such licensee to make the announcement required by this section.

. . . .

(e) The announcement required by this section shall, in addition to stating the fact that the broadcast matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or other valuable consideration is received, or by whom the material or services referred to in paragraph (d) of this section are furnished. Where an agent or other person or entity contracts or otherwise

tioners' Opening Brief at 24c. The Commission interprets the statute and its own regulations to impose a much less stringent obligation: a licensee confronted with undocumented allegations and an undocumented rebuttal may safely accept the apparent sponsor's representations that he is the real party in interest.

We agree with the Commission's interpretation of its statutory authorization and of its own regulations. We agree not merely because the Commission's interpretation is entitled to deference but also because we have grave doubts that the Commission could, in circumstances like these, require more of the licensees than it did in this case. A duty to undertake an arduous investigation ought not casually be assigned to broadcasters. A variety of considerations, ranging from practical ones of adminis-

---

makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable dfligence, as specified in paragraph (b) of this section. could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent. Where the material broadcast is political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the broadcast matter, the station shall, in addition to making the announcement required by this section, require that a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group, or other entity shall be made available for public inspection at the location specified by the licensee under § 73.3526 of this chapter. If the broadcast is originated by a network, the list may, instead, be retained at the headquarters office of the network or at the location where the originating station maintains its public inspection file under § 73.3526 of this chapter. Such lists shall be kept and made available for a period of two years.

. . . .

-11a-

trative feasibility to legal ones involving constitutional difficulties, support that view. We would be reluctant, therefore, to find a power in the Commission to require more of licensees than it has required here unless there existed rather clear evidence that Congress intended to vest such a power. But an examination of the Communications Act, its legislative history, and the evils that Congress addressed does not reveal an intention to require more of licensees than the Commission required here.

A.

The Commission's authority in this area is conferred by section 317 of the Communications Act, 47 U.S.C. § 317 (1976 & Supp. V 1981).[4] Section 317 contains three subsections of particular relevance.

Subsection (a)(1) provides that if a licensee broadcasts any "matter" for which "any money, service or other valuable consideration" has been "directly or indirectly" given or promised to the licensee by "any person," the licensee must announce that its broadcast has been "paid for or furnished, as the case may be, by such person" at the time the broadcast is presented.

A proviso to subsection (a)(1) states that the announcement need not be made for services or property donated without charge or at a nominal charge. The proviso's exemption is narrowed by subsection (a)(2) which states that nothing in the section shall preclude the Commission from requiring "an appropriate announcement" when a licensee broadcasts any political program or program discussing a controversial issue for which the licensee has received any type of broadcast material, even if no monetary consideration is involved.

Subsection (c) requires a station to "exercise reasonable diligence to obtain from its employees, and from

[4] See note 8 *supra*.

other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable [it] to make the announcement required by this section." In contrast to subsection (a)(1), subsection (c) refers only to persons with whom a station deals directly and thus indicates that the station may rely on the data provided by such a person to determine whether the party paying is the real party in interest. In its terms, then, the "reasonable diligence" required by subsection (c) does not mandate a full-scale investigation by a broadcaster and is satisfied by appropriate inquiries made by the station to the party that pays it for the broadcast.

B.

Legislative history tends to confirm the understanding of the licensee's duty indicated by the statute's text. Section 317 traces its lineage to section 19 of the Radio Act of 1927, ch. 169, 44 Stat. 1162, 1170.

1. The Radio Act of 1927, the first comprehensive federal regulation of broadcasting, was primarily a "traffic control" measure authorizing the newly created Federal Radio Commission to eliminate the chaos created by the rapidly increasing number of private broadcasters who often used the same wavelengths in the same vicinities. *National Broadcasting Co.* v. *United States*, 319 U.S. 190, 210-13 (1943); *see Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 375-77 & nn.4-5 (1969). The sponsorship identification provision of the Act occupied a humble position in the regulatory design and went virtually unnoticed.

As originally proposed, the predecessor to the 1927 bill, H.R. 7357, did not contain such a provision. *To Regulate Radio Communication: Hearings on H.R. 7357 Before the House Comm. on the Merchant Marine and Fisheries*, 68th Cong., 1st Sess. 1-7 (1924) (reprinting bill (hereinafter *House Hearings on H.R. 7357*). During the hearings, however, Representative Ewin Davis recommended

a provision requiring broadcasters to identify paid advertisements as such. He suggested that the requirement should be similar to an existing postal law that required all mailed, second-class material such as newspapers or magazines clearly to identify all paid advertisements.[5] *House Hearings on H.R. 7357* at 60. Insofar as this suggestion was subsequently addressed in the hearing, the attention devoted to it was cursory. *See, e.g., id.* at 84-85. Section 6 of the bill reported out of the committee required, in the words of the House Merchant Marine and Fisheries Committee, that "all matters broadcasted for which any money or other valuable consideration is paid shall be announced as advertising at the time the same is broadcasted." H.R. Rep. No. 719, 68th Cong., 1st Sess. 6 (1924). The House of Representatives never voted on the bill. H. Warner, *Radio and Television Law* § 92, at 769 & n.38 (1948).

During the next Congress, Representative Wallace White introduced H.R. 5589, which, in section 5, contained a sponsorship identification provision based on section 6 of H.R. 7357. *To Regulate Radio Communication: Hearings on H.R. 5589 Before the House Comm. on the Merchant Marine and Fisheries*, 69th Cong., 1st Sess. 5 (1926) (reprinting H.R. 5589) (hereinafter *House Hearings on H.R. 5589*).[6] Like its predecessor, section 5 of

---

[5] Act of Aug. 24, 1912, ch. 389, 37 Stat. 539, 553, *amended*, Act of Mar. 3, 1933, ch. 207, 47 Stat. 1486 (codified at 39 U.S.C. § 234 (1952)), *readopted as amended*, Act of Sept. 2, 1960, Pub. L. No. 86-682, 74 Stat. 578, 671 (codified at 39 U.S.C. § 4367 (1970)), *repealed*, Postal Reorganization Act of 1970, Pub. L. No. 91-375, § 2, 84 Stat. 719.

[6] Section 5 provided:

> All matters broadcasted by any radio station for which service[,] money or any other valuable consideration is directly or indirectly paid or promised to or charged or accepted by, the station so broadcasting, shall be announced as "advertising" at the time the same is so broadcasted: *Provided*, That when the advertisement or publicity sought consists solely of the announcement of the

H.R. 5589 was the subject of limited discussion.[7] The Committee Report accompanying H.R. 5589 referred to section 5 only briefly and stated simply that the purpose of this provision was "to make sure that advertising shall not be hidden from the listener." H.R. Rep. No. 404, 69th Cong., 1st Sess. 3 (1926).

On the House floor, another bill, H.R. 9971, which also contained a sponsorship identification provision, was substituted for H.R. 5589. 67 Cong. Rec. 5473-78 (1926). The House engaged in a lengthy debate over H.R. 9971, but section 5 was rarely addressed. There was no discussion of the proposed sponsorship identification section, and the only amendment offered to this provision, one which would have eliminated the committee's proposal to permit alternative forms of announcements, was defeated. *Compare* 67 Cong. Rec. 5488 (1926) (proposed amendment by Rep. Cellar) *with id.* at 5574 (vote on amendment). The House passed H.R. 9971 with section 5 unchanged.

---

name, business, and address of the person, firm, company, or corporation paying for the feature broadcasted it shall be sufficient to announce that such feature is "paid for or furnished by" such person, firm, company, or corporation.

[7] Again, only two witnesses addressed section 5 in their testimony. One, Commerce Department Solicitor Stephen Davis, stated that the Department, the executive department then responsible for regulating radio, was "complete[ly] indifferen[t]" towards section 5. *House Hearings on H.R. 5589* at 133. The other witness, Herbert Smith, a representative of the National Carbon Company, which sponsored an entertainment program known as the "Ever-Ready Hour," recommended an amendment to section 5 to eliminate any confusion about what it required when a firm sponsored an entire entertainment program rather than a commercial. *Id.* at 82-85. Representative Davis reiterated his concern that radio stations should be required to identify advertisements, lest the audience be deceived into believing that the station itself sponsored the broadcast, *id.* at 83-87, but disagreed with Mr. Smith's amendment solely on questions of language. *Id.* With only minor changes in language, the committee adopted the amendment.

The Senate referred H.R. 9971 to the Committee on Interstate Commerce, which had already held its own hearings on two Senate bills to regulate radio communications. *Hearings on S. 1 and S. 1754 Before the Senate Comm. on Interstate Commerce*, 69th Cong., 1st Sess. (1926). Neither of these proposals contained a sponsorship identification section, *id.* at 1 (reprinting S. 1), 1-8 (reprinting S. 1754), and neither the witnesses who testified at these hearings nor the Senators who were present proposed that one should be added. Ultimately, the Committee substituted a greatly revised bill for H.R. 9971, *see* S. Rep. No. 772, 69th Cong., 1st Sess. 1 (1926), in which section 5 was nonetheless incorporated in the same form that the House had passed. *See* 67 Cong. Rec. 12,502 (1926) (remarks of Senator Dill). The only reference to the sponsorship identification requirement in the Senate Committee's Report was the statement that "[a]ll matter broadcast for hire shall be announced as paid material . . . ." S. Rep. No. 772, *supra*, at 4.

In the Senate debate on its version of H.R. 9971, there was no substantial discussion of the sponsorship identification provision. Section 5 of the House proposal, as approved by the Senate Interstate Commerce Committee, was left unchanged in the final modified version of H.R. 9971 that was passed by the Senate and referred to a Conference Committee. 67 Cong. Rec. 12,618 (1926). The compromise reached by the Conference Committee in turn adopted section 5, renumbered as section 19 of the Conference Committee bill, without substantial change. H.R. Conf. Rep. No. 1886, 69th Cong., 2d Sess. 18 (1927). After some debate, both chambers accepted the Conference proposal, including section 19. 68 Cong. Rec. 2580 (1927) (House vote); 68 Cong. Rec. 4155 (1927) (Senate vote). The President later signed the Radio Act of 1927 into law.[8]

---

[8] As enacted this section read as follows:

SEC. 19. All matter broadcast by any radio station for which service, money, or any other valuable consideration

The legislative history of the Radio Act of 1927 shows that the sponsorship identification provision imposed only a very limited obligation upon broadcasters: to announce that a program had been paid for or furnished to the station by a third-party and to identify that party. We have neither found nor been pointed to any indication that Congress contemplated that section 19 might require broadcasters to investigate whether a party purchasing commercial time was acting on his own behalf or as an agent for someone else.

Similarly, we have not discovered any evidence outside the formal legislative history that suggests that Congress or the legal community believed that section 19 required broadcasters to undertake investigations. The contemporary literature thoroughly canvassed what were then thought to be the major provisions and purposes of the Act,[9] and the sponsorship identification provision was

---

is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, firm, company, or corporation, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person, firm, company, or corporation.

Ch. 169, 44 Stat. 1162, 1170.

[9] *See* Ashby, *Legal Aspects of Radio Broadcasting*, 1 Air L. Rev. 331 (1930); Caldwell, *The Standard of Public Interest, Convenience or Necessity as Used in the Radio Act of 1927*, 1 Air L. Rev. 295 (1930); Caldwell, *Censorship of Radio Programs*, 1 J. Radio L. 441 (1931); Chamberlain, *The Radio Act of 1927* (pts. 1-2), 13 A.B.A.J. 343, 368 (1927); Chapman, *The Power of the Federal Radio Commission to Regulate or Censor Radio Broadcasts*, 1 Geo. Wash. L. Rev. 380 (1933); Davis, *The Radio Act of 1927*, 13 Va. L. Rev. 611 (1927); Davis, *International Radio Relations*, 16 Geo. L.J. 400 (1928); Donovan, *Origin and Development of Radio Law* (pts. 1-3), 2 Air L. Rev. 107, 349, 468 (1931); Nordhaus, *Judicial Control of the Federal Radio Commission*, 2 J. Radio L. 447 (1932); Rowley, *Problems in the Law of Radio Communication*, 1 U. Cinn. L. Rev. 1 (1927); Webster, *Our Stake in the Ether*, 17

hardly noticed. The commentators who made reference to section 19 limited their discussion to a restatement of its language.

2. In the years immediately following the passage of the 1927 Act, section 19 provoked no controversy whatever. Congress returned to the subject of communications in 1934 not to redress major perceived inadequacies in the existing legislation but simply to refine the system it had already established. As stated in section 151 of the Communications Act of 1934,[10] its purpose was to promote the effective and efficient use of communications for the public and private weal by augmenting existing regulatory authority and centralizing that authority in the hands of one agency, the newly created Federal Communications Commission.[11] The legislative history of the 1934 Act reveals no dissatisfaction with the existing sponsorship identification requirement. Section 19, renumbered as section 317, was neither amended nor debated.[12]

A.B.A.J. 369 (1931); Webster, *Notes on the Policy of the Administration with Reference to the Control of Communications*, 5 Air L. Rev. 107 (1934); White, *History of Radio Legislation in the United States*, 2 J. Radio L. 179 (1932); Note, *The Constitutionality of the 1927 Radio Act and Amendments*, 1 Air L. Rev. 127 (1930); Note, *Radio Act of 1927—Constitutionality of Davis Amendment*, 4 Air L. Rev. 182 (1933); Note, *The Radio Act of 1927*, 27 Colum. L. Rev. 726 (1927).

[10] The Communications Act of 1934, ch. 652, § 151, 48 Stat. 1064 (codified as amended at 47 U.S.C. § 151 *et seq.* (1976)).

[11] See National Broadcasting Co. v. United States, 319 U.S. at 214; FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 137 (1940); 1 A. Socolow, *The Law of Radio Broadcasting* § 47, at 54; § 48, at 55 (1939); H. Warner, *Radio and Television Law* § 102, at 795-96 (1948); McManus, *Federal Legislation Regulating Radio*, 20 S. Cal. L. Rev. 146, 154 (1947).

[12] The Senate, House, and Conference Committee Reports each indicated that section 317 of the new Act readopted section 19 of the 1927 Act. S. Rep. No. 781, 73d Cong., 2d Sess. 8 (1934); H.R. Rep. No. 1850, 73d Cong., 2d Sess. 2, 7 (1934);

3. After 1934, Congress devoted little if any attention to section 317 until scandals in the broadcast industry surfaced in the late 1950s. It was learned at that time that record companies made secret payments to disc jockeys to play certain records (a practice known within the industry as "payola") and that game show contestants had been provided with answers to questions beforehand in order to enhance the dramatic quality of the programs. Both the Attorney General [13] and congressional committees [14] investigated. The practices disclosed led

---

H.R. Conf. Rep. No. 1918, 73d Cong., 2d Sess. 47 (1934). The only difference between section 19 and section 317 was that section 317 omitted the reference to "firm, company, or corporation" after the reference to "person" in section 19.

Like its predecessor, section 317 of the 1934 Communications Act did not receive any special attention by the legal community. Commentary on section 317 was, again, typically limited to a restatement of the terms of the statute. *See, e.g.*, Note, *Communications Act of 1934*, 21 Va. L. Rev. 318, 322 & n.31 (1935).

[13] Report to the President by the Attorney General on Deceptive Practices in Broadcasting Media (1959), *reprinted in Investigation of Regulatory Commissions and Agencies, Interim Report of the Subcomm. on Legislative Oversight*, H.R. Rep. No. 1258, 86th Cong., 2d Sess. (1960).

[14] *Investigation of Television Quiz Shows: Hearings Before the Legislative Oversight Subcomm. of the House Comm. on Interstate and Foreign Commerce*, 86th Cong., 1st Sess. (1959); *Investigation of Regulatory Commissions and Agencies, Interim Report of the Subcomm. on Legislative Oversight*, H.R. Rep. No. 1258, 86th Cong., 2d Sess. (1960); *Responsibilities of Broadcasting Licensees and Station Personnel: Hearings on Payola and Other Deceptive Practices in the Broadcasting Field Before the Legislative Oversight Subcomm. of the House Comm. on Interstate and Foreign Commerce*, 86th Cong., 2d Sess. (1960); *Communications Act Amendments: Hearings on Conditional Grants, Pregnant Procedure, Local Notice, Local Hearings, Payoffs, Suspension of Licenses, and Deceptive Practices in Broadcasting Before the Communications and Power Subcomm. of the House Comm. on Interstate and Foreign Commerce*, 86th Cong., 2d Sess. (1960). *See also Proposed Amendments to FCC Act of 1934: Hearing*

Congress to amend section 317 in 1960. The most important feature of the amendments, for present purposes, was the addition of subsection (a)(2).

As noted above, the language of subsection (a)(2) authorized the FCC to require licensees to make "an appropriate announcement" if the licensee broadcast political or controversial material, even if it had received that material free of charge. The legislative history pertinent to that subsection is sparse but indicates that Congress adopted it in order to ratify regulations adopted by the Commission in 1944,[13] which had expanded a

---

on S. 1898 Before the Communications Subcomm. of the Senate Comm. on Interstate and Foreign Commerce, 86th Cong., 2d Sess. (1960).

[13] These regulations provided in pertinent part:

Section 3.409 *Sponsored programs, announcement of.*

(a) In the case of each program for the broadcasting of which money, services, or other valuable consideration is either directly or indirectly paid or promised to, or charged or received by, any radio broadcast station, the station broadcasting such program shall make, or cause to be made, an appropriate announcement that the program is sponsored, paid for, or furnished, either in whole or in part.

(b) In the case of any political program or any program involving the discussion of public controversial issues for which any records, transcriptions, talent, scripts, or other material or services of any kind are furnished, either directly or indirectly, to a station as an inducement to the broadcasting of such program, an announcement shall be made both at the beginning and conclusion of such program on which such material or services are used that such records, transcriptions, talent, scripts, or other material or services have been furnished to such a station in connection with the broadcasting of such program: *Provided, however,* That only one such announcement need be made in the case of any such program of five minutes' duration or less, which announcement may be made either at the beginning or the conclusion of the program.

(c) The announcement required by this section shall fully and fairly disclose the true identity of the person or

licensee's obligations in several ways. *See* H.R. Rep. No. 1800, 86th Cong., 2d Sess. 24-25 (1960); S. Rep. No. 1857, 86th Cong., 2d Sess. 5 (1960).[16] In particular,

---

persons by whom or in whose behalf such payment is made or promised, or from whom or in whose behalf such services or other valuable consideration is received, or by whom the material or services referred to in paragraph (b) hereof are furnished. Where an agent or other person contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known to the station, the announcement shall disclose the identity of the person or persons in whose behalf such agent is acting instead of the name of such agent.

(d) In the case of any program, other than a program advertising commercial products or services, which is sponsored, paid for or furnished, either in whole or in part, or for which material or services referred to in paragraph (b) hereof are furnished, by a corporation, committee, association or other unincorporated group, the announcement required by this section, shall disclose the name of such corporation, committee, association or other unincorporated group. In each such case the station shall require that a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group shall be made available for public inspection at one of the radio stations carrying the program.

9 Fed. Reg. 14,734 (1944) (codified at 47 C.F.R. § 3.409 (Supp. 1944)).

[16] The House Report stated:

Proposed section 317(a)(2)

This subsection makes it clear that the instant legislation is not intended to change the Commission's present requirement that an announcement be made in the case of any political program or any program involving the discussion of any controversial issue even where the program matter is furnished without charge or at a nominal charge as an inducement to the broadcast of the program. Thus, an announcement in these circumstances may be required even though, in fact, the matter broadcast is not "paid" matter. However, the Commission in 1944, with the

subsection (c) of these regulations required that a licensee "fully and fairly disclose the true identity of the person or persons by whom or in whose behalf" the licensee was paid or from whom the licensee received political or controversial program material. 9 Fed. Reg. 14,724 (1944) (codified at 47 C.F.R. § 3.409(c) (Supp. 1944)). In addition, "[w]here an agent or other person contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known to the station," the station was required to identify the principal rather than the agent when it made the sponsorship announcement. *Id.*

Congress' ratification of these Commission regulations did not impose any burden of independent investigation upon licensees. We have seen that the language of section 317, of itself, does not do so, and it is equally plain that the regulations do not. Subsection (c) of the regulations requires disclosure by the licensee but does not require investigation. The inference that the licensee is required to disclose only what he knows without investigation is fortified by the further statement in subsection (c) that where an agency relationship exists "and such fact is known to the station," the licensee must identify the principal rather than the agent. The regulation did not say, as it easily could have done, that such identification must be made when the licensee could

---

concurrence of the broadcast industry, promulgated a rule to this effect. The broadcast industry at no time has raised objection to the announcement requirement in these situations. In order to provide specific statutory authority for the requirement of an announcement here, the substance of the Commisison rule has been included as subsection (a) (2) of the amended section 317.

H.R. Rep. No. 1800, *supra*, at 24-25. The Senate Report only stated that "Subsection (a) (2) of proposed section 317 would permit the Commission to continue in existence its rule regarding political programs or controversial issues." S. Rep. No. 1857, *supra*, at 5.

learn of the agency or that the licensee must inquire if circumstances give reason to suspect an undisclosed principal. The regulations Congress ratified imposed an extremely limited duty upon licensees.

Nothing in the legislative history suggests that Congress was aware of any "payola"-like scandals or problems akin to "payola" in the realm of political programming. Nor was Congress acting against a background of significant Commission interpretation of its own regulations that Congress may be presumed to have adopted. The one significant Commission action prior to Congress' 1960 amendment of section 317 came in *Albuquerque Broadcasting* Co., 40 F.C.C. 1 (1946). The licensee there had written to the Commission for clarification of its responsibilities with respect to the identification of sponsors of political broadcasts. The Commission's reply stated, somewhat unhelpfully, that a licensee's compliance would be judged on a case-by-case basis. *Id.* The Commission gave only one illustration:

> For example, if a speaker desires to purchase time at a cost apparently disproportionate to his personal ability to pay, a licensee should make an investigation of the source of the funds to be used for payment. This is particularly true in a case where the speaker has previously appeared on similar broadcasts sponsored by others, and announces the fact that he is resuming his broadcasts.

Id. The principle being applied by the Commission was, apparently, that a licensee had not merely a duty to announce the true sponsor when that sponsor's identity was known to the licensee, but that circumstances might raise such a suspicion in the mind of a reasonable man that the licensee was placed under a duty to take affirmative action to learn the identity of the true sponsor. The Commission took no position, however, on how extensive the required investigation must be. For example, if the speaker insisted that he was the real principal,

must the licensee demand to know the source of his funds, require an affidavit of him, and interview persons who might know the situation? Does the extent of the licensee's obligation vary according to the remoteness of the witnesses and evidence and the licensee's resources? The singularly unhelpful nature of the Commission's advice was highlighted by its further observation: "Nor would the fact that an independent investigation is necessary in a particular case, automatically relieve a station from its responsibility to make its facilities available to the person in question." *Id.*[17]

Had Congress known of *Albuquerque Broadcasting*, and had it intended to ratify that letter of advice in amending section 317, the result would be merely that a licensee was put upon some undefined duty of inquiry

---

[17] In a series of opinions rendered between 1958 and 1960, which coincided with the period during which the Attorney General and Congress were conducting their investigations, the Commisison held that several licensee stations had violated their section 317 obligations by failing to disclose that they had received free summaries of certain Senate hearings from the National Association of Manufacturers. 40 F.C.C. at 12-65. Although the Commission noted in some of these cases that material of a politically controversial nature should alert licensees to be especially diligent about the obligations imposed by section 317, the Commission's pronouncement was made in the context of licensee failure to make any announcement at all and thus does not indicate the extent of licensee responsibility to reject an identification provided by the party who supplied the material. The Commission also ordered all licensees to inform the Commission of all broadcasts they had made for compensation in the past year and any internal controls they had established. *In re Sponsorship Identification Compliance*, 40 F.C.C. 66 (1959). The Commission also issued a discussion of its policies and practices, *In re Sponsorship Identification of Broadcast Material*, 40 F.C.C. 69 (1960), among other rulings. None of these rulings sheds significant light on the extent of any duty to investigate in circumstances such as those here where an identification has been made and the purported sponsor has submitted facially plausible information to support that identification.

when rather obtrusive facts suggested that the purported sponsor of a political broadcast was not the actual sponsor. There is, however, no indication that Congress even knew of the Commission's interpretation. *Albuquerque Broadcasting* was not explicitly referred to in the House Report, the Senate Report, or the floor debates in either chamber. *See* H.R. Rep. No. 1800, *supra*; S. Rep. No. 1857, *supra*. Thus, the Commission regulations as they existed and were interpreted at the time Congress ratified them by enacting subsection (a)(2) of section 317 give no reason to impute to Congress any desire to impose upon licensees a duty of wide-ranging investigation. Certainly, Congress expressed no such intention.[18]

The only remaining question then is whether subsequent actions by the Commission have expanded, and can legitimately expand, a licensee's duty to investigate.

C.

Following the 1960 statutory amendments, the Commission in 1963 issued new regulations that consolidated the existing regulations and the 1960 amendments. *In re Applicability of Sponsorship Identification Rules*, 40 F.C.C. 141, 143-44 (1963) (codified at 47 C.F.R. § 73.119 (1964)). The Commission did not decide an-

[18] The Senate Report describes the reasonable diligence requirement of subsection (c) as follows:

> The term "reasonable diligence" would require the licensee to take appropriate steps to secure such information, but it would not place a licensee in the position of being an insurer, nor does this condition permit a licensee to escape responsibility for sponsorship announcements by inactivity on his part.

S. Rep. No. 1857, *supra*, at 6. This explanation, while it establishes that a licensee cannot discharge its duty by passively ignoring sponsorship information it might easily obtain, nonetheless indicates that a licensee need not go behind the information it receives to guarantee its accuracy.

other case involving political broadcasts until *WHAS, Inc.*, 40 F.C.C. 190 (1964).

That case arose when an advertising agency purchased air time from WHAS to present "The Chandler Years in Review," a disparaging commentary on Albert Benjamin Chandler's tenure as Governor of Kentucky. Two days later, an agency employee told WHAS that the broadcast would be paid for by "The Business Friends for Breathitt," Breathitt being Chandler's opponent in a gubernatorial campaign. Other facts known to the station also gave it reason to know that the Breathitt campaign was paying for the telecast. Within a week, the advertising agency "corrected" its phone call to say that "The Committee for Good Government" would sponsor the telecast instead, and the program was broadcast under that name. 40 F.C.C. at 191-92.

The FCC held that WHAS violated its sponsorship identification obligation because the station was required to notify the public of the principal's identity, where it was known to the licensee, rather than simply identify the agent purchasing the air time.

The Commission sued to recover the forfeiture it had imposed. The district court, however, held that WHAS had not violated the sponsorship identification rules, *United States* v. *WHAS, Inc.*, 253 F. Supp. 603 (W.D. Ky. 1966). The Sixth Circuit affirmed, holding that subsection (d) of the regulations[19] gave the station the right to identify the payer as the sponsor even though subsection (c) might have been read to require that the actual sponsor be named when known to the station. *United States* v. *WHAS, Inc.*, 385 F.2d 784 (6th Cir. 1967). The court remarked that it was "by no means precluding the FCC from adopting a Regulation calculated to require a station to make reasonable efforts

[19] The relevant regulations were identical to those cited in note 15 *supra*.

to go beyond a named 'sponsor' for a political program in order to ascertain the real party in interest for purposes of announcement." *Id.* at 788.

The Commission did not respond to the *WHAS* decision by amending its regulations until 1975. The new regulations provided that where an agent makes arrangements with a station on behalf of another "and such fact is known or by the exercise of reasonable diligence . . . could be known to the station," the sponsorship announcement must disclose the name of the principal rather than the agent. 52 F.C.C.2d 701, 714 (1975). The Commission dismissed the argument of the National Broadcasting Company that it did not have the statutory authority to require a licensee to search for the true identity of a sponsor by relying upon the Sixth Circuit's *dictum* in *United States* v. *WHAS, Inc.*, 385 F.2d at 788. 52 F.C.C.2d at 708-09.

Prior to Loveday's petition, only the Commission has had occasion to interpret the 1975 regulations, as it did in *VOTER*, 46 Rad. Reg. 2d (P & F) 350 (1979). Westchester County, New York, had on its ballot a proposition to establish a county utility agency and to explore the development of a public power authority for the county. VOTER, a citizens committee that supported the proposition, complained that stations in the New York City area had broadcast paid advertisements in opposition to the proposition and had identified the advertisements as paid for by Westchester Citizens Against Government Takeover. In fact, VOTER alleged, the true sponsor was Consolidated Edison Company of New York, from which Westchester Citizens derived all or a very substantial part of its funds. Westchester Citizens replied that it had accepted substantial funds from Consolidated Edison but that no officer or employee of the utility was a member or eligible for membership in Westchester Citizens and that the latter paid for and controlled the content of the advertisements. The Broadcast Bureau ruled:

> Under the [Commission's] policies . . . , we cannot prohibit any licensee who chooses to do so from *adding* the identification you urge. However, we cannot conclude [that] any licensee, in evaluating the facts before it regarding the advertisement, failed to exercise reasonable diligence by accepting the representations of Westchester Citizens. The substantial proportion of Con Edison's role in Westchester Citizens funding might suggest a basis for further inquiry to some licensees. On the other hand the Westchester Citizens by-laws, represented assertion of editorial control over these advertisements, and the weight of precedent suggest that those licensees who accepted Westchester Citizens' advertisements as offered did so in good faith and without closing their eyes to any attempted misrepresentation. Indeed, some licensees may conclude, either on the facts thus far provided by the Westchester Citizens, or additional information not now before us, that, in its view, "Con Edison" alone is the appropriate identification. In such a case, we would have no basis for finding that the licensee has acted unreasonably.

46 Rad. Reg. 2d (P & F) at 352.

As the excerpt above suggests, the Commission has never indicated in enforcement proceedings that section 317 or its own regulations require a station to conduct any investigation or to look behind the plausible representations of a sponsor that it is the true party in interest.

D.

In light of our examination, we must reject petitioners' contention that the legislative history of the Communications Act requires the Commission to impose upon licensees a duty to investigate when they receive conflicting representations of the type involved here. If Congress intended to impose a duty of licensee investigation in a case of this sort, that intention was never made explicit in the statute or its history.

There are, moreover, good reasons why this court should not read into the statute or regulations the licensee duty petitioners seek to establish. The result, if we agreed with petitioners' argument, would be to create an administrative quagmire, to establish standards so variable as to invite abuse, and to raise possible constitutional questions. These are not merely reasons for a court to stay its hand, they are also reasons to doubt that Congress could have intended what petitioners argue.

Petitioners have been rather indefinite about what the California broadcasters were required to do when confronted by Kalish's allegations and Bergland's counter-allegations. The reasons for that vagueness may be suggested by an attempt to imagine the details of any process of further investigation. Broadcast companies are not grand juries. They have no power to subpoena documents or to compel the attendance of witnesses. They could, of course, refuse to broadcast unless all relevant documents and witnesses were produced for examination. If we make the rather implausible assumption that executives of the apparent sponsor, the advertising agency, and the alleged real sponsor would all cooperate, the result would be to judicialize the process of being allowed to utter a political statement. Having provided no clear indication that it contemplated such results, Congress cannot be presumed to have intended to place that burden, expense, and delay upon political speech. In the absence of such cooperation by the parties with whom stations deal, the alternative would be a field investigation by agents of the stations, involving requests for documents and interviews and, perhaps, observation of suspected persons. Again, the burden, expense, and delay would be considerable and in many cases possibly prohibitive. Section 317 can hardly have been designed to turn broadcasters into private detectives.

Even supposing a searching investigation to be a realistic possibility, the result of requiring it would be an

administrative quagmire. Broadcasters differ greatly in their resources and personnel, ranging from large stations in urban areas to small stations that often have no more than one person on the premises.[20] Similarly, the "sponsors" whom they would have to investigate may be large or small, nearby or geographically remote, cooperative or recalcitrant. The intensity of the investigation that will be practicable will vary according to the combination in a particular case of these and other factors. In the present case, for example, a spectrum of different duties of investigation would have to be applied to the radio and television licensees in California. The administrative burden such a system would impose on the Commission would surely strain, and might well be beyond, its powers. The series of hearings involved would probably require years to complete. Equally problematic is the question of fairness to the licensees, who would have to guess in every situation what the Commission would later find to be "reasonable diligence." Indeed, we cannot completely overlook the opportunities for abuse that such a variable and unknown standard would present should some future Commission use its powers for political purposes.[21] This constitutes an additional reason to insist that the regulatory rules to which licensees are subject be clear and not susceptible to manipulation.

Were we to approve a stringent obligation to investigate, one along the lines petitioners seek, the most likely result would be that many stations, in lieu of incurring the expense of the investigation and the risk that the Commission would later assess their duties differently, would try, possibly by imposing burdensome disclosure requirements on advertisers, to avoid carrying advertise-

---

[20] *See* 106 Cong. Rec. 14,310-11 (1960) (remarks of Rep. Avery).

[21] It has been said that the fairness doctrine lends itself to use for partisan political purposes. *See* F. Friendly, *The Good Guys, the Bad Guys and the First Amendment* (1976).

ments of the type involved here. If so, opponents of groups sponsoring political messages would have a ready means of harassing and perhaps silencing their adversaries by making charges, however baseless, that the true sponsor of a political advertisement was someone other than the named sponsor. The rule petitioners seek might, therefore, have the effect of choking off many political messages. Quite aside from any First Amendment difficulties that such a rule might implicate, we are certainly not prepared to say that the public would be benefited from a decline in the number and variety of political messages it receives.[22] Even more certainly, any such decision concerning the public benefits of such a rule should come from Congress and not this court.

Finally, it may not be amiss to note that reading into the silences of the legislative history the duties that petitioners advocate would create a situation that is not entirely free of First Amendment concerns. Supreme Court decisions compel us to recognize that the First Amendment's protections of speech and the press are less strong where the broadcast media are concerned than they are with respect to the print media.[23] "[O]f all forms of

---

[22] Only last year the Supreme Court wrote that "[i]n a political campaign, a candidate's factual blunder is unlikely to escape the notice of, and correction by, the erring candidate's political opponent." Brown v. Hartlage, 456 U.S. 45, 61 (1982). We believe the same can be said for ballot initiatives like the ones here, even when it is the identity of the speaker that is in issue rather than the content of his speech. Indeed, petitioners themselves admit that, despite the tobacco industry's alleged efforts to cover its trail during the Proposition 5 campaign, the California voters were well aware of the industry's involvement. JA at 22, 55; Petitioners' Opening Brief at 5, 12.

[23] *Compare* Talley v. California, 362 U.S. 60 (1960) (ban on anonymous leaflets invalid), *and* Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974) (state law providing right of reply to political candidate attacked by newspaper invalid),

communication, it is broadcasting that has received the most limited First Amendment protection." *FCC* v. *Pacifica Foundation*, 438 U.S. at 748. Given the differences in the availability of access to the various types of media and their differences in impact, various rationales have been offered by the Supreme Court for the differences in constitutional protection. The rationale that applies most forcefully in the present context would seem to be the scarcity of available frequencies on the broadcast spectrum.

> Freedom of utterance is abridged to many who wish to use the limited facilities of radio. Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to governmental regulation.

National Broadcasting Co. v. *United States*, 319 U.S. at 226. Today when the number of broadcast stations not only far exceeds the number when the Communications Act was adopted and the number when the *National Broadcasting Co.* case was decided but rivals and perhaps surpasses the number of newspapers and magazines in which political messages may effectively be carried, it

---

with Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1981) (FCC fairness doctrine and implementing rules valid), *and* CBS, Inc. v. FCC, 453 U.S. 367 (1981) (statute providing political candidates right of access to broadcast stations and FCC's implementation of statute valid). *Compare* Linmark Associates, Inc. v. Township of Willingboro, 431 U.S. 85 (1977) (ban on residential "For Sale" signs violates First Amendment), *with* Capital Broadcasting Co. v. Mitchell, 333 F. Supp. 582 (D.D.C. 1971) (three-judge court), *aff'd sub nom.* Capital Broadcasting Co. v. Acting Attorney General, 405 U.S. 1000 (1972) (mem.) (upholding ban on broadcast advertising of cigarettes over First Amendment challenge). *See also* Lewis Publishing Co. v. Morgan, 229 U.S. 288 (1913) (upholding, over First Amendment challenge, the postal law requiring second-class mail to identify advertisements that was the basis for section 317).

seems unlikely that the First Amendment protections of broadcast political speech will contract further, and they may well expand. As matters now stand, the protections accorded printed messages are not wholly irrelevant to broadcast freedoms. Thus, while it has been held unconstitutional for a city ordinance to require disclosure of the author of a printed statement, *Talley* v. *California*, 362 U.S. 60 (1960), such disclosure may apparently be required where the statement is broadcast. Nonetheless, even in broadcasting, where the law's attempt to discover the true utterers of political messages becomes so intrusive and burdensome that it threatens to silence or make ineffective the speech in question, the law presses into areas which the guarantee of free speech makes at least problematic. Before we would construe a statute or a regulation to have that effect, we would require a far clearer congressional directive that stations affirmatively seek out true sponsors than we have here.[34] The failure of Congress to address these questions thus provides an additional reason for doubting that Congress intended any rule such as petitioners urge. Had Congress so intended, there surely would have been some discussion of the practicalities of investigation, the difficulties of administration, the potential unfairness, and the constitutional questions that would follow from such a rule. The legislative history is bare of any such concerns.

These observations, which we note again are mentioned not to raise constitutional doubts but to discern legisla-

---

[34] In construing the statute and regulations, we thus follow the tradition of adopting the reading that will avoid rather than implicate constitutional questions, *see* United States v. Security Industrial Bank, 103 S. Ct. 407, 412-14 (1982); NLRB v. Catholic Bishop of Chicago, 440 U.S. 490, 509 (1979) (Brennan, J., dissenting); Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127, 137-38 (1961); International Association of Machinists v. Street, 367 U.S. 740, 749 (1961); Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 346-48 (1936) (Brandeis, J., concurring).

tive intent, determine the outcome of this case. The licensees had before them two short letters from Kalish containing unsupported allegations that the tobacco industry rather than Regulatory Excess was the true sponsor of the advertisements opposing Proposition 10 and demanding that the stations identify the industry as the sponsor. The licensees also had before them Regulatory Excess' replies stating that it was the real sponsor. In these circumstances, we find that the Commission could properly conclude that the stations were not required to investigate further. Indeed, given what we have said, it seems at least doubtful that the Commission was free to decide otherwise.[25] There may be cases where a challenger makes so strong a circumstantial case that someone other than the named sponsor is the real sponsor that licensees, in the exercise of reasonable diligence, would have to inform the named sponsor that they could not broadcast the message without naming another party. But that case is not before us today.

The Commission's decision that the California licensees satisfied their sponsorship identification obligation is not arbitrary, capricious, or an abuse of discretion. The Commission's interpretation of its own regulations as applied in this case is reasonable and consistent with section 317 of the Communications Act.

The decision of the Commission is therefore

Affirmed.

---

[25] We have no occasion to address the Broadcast Bureau's dictum that, given the conflicting statements before them, the licensees were free to choose to comply with petitioners' request by simply substituting the tagline suggested by petitioners for that supplied by the party with whom they dealt.

APPENDIX B

FCC DECISION

APPENDIX B

FC 81-370

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In re Request for Declaratory Ruling
of Paul Loveday and Californians for
Smoking and No Smoking Sections

ORDER

(Adopted: July 30, 1981; Released: August 7, 1981)

BY THE COMMISSION:

1. The Commission has before it an Application for Review, filed on November 28, 1980, by Paul Loveday et al, of the Broadcast Bureau's ruling of October 30, 1980.*

2. The Bureau's ruling (see Attachment A, page 7) stated the "(the complainants had not submitted) any conclusive evidence which establishes that the tobacco companies are exercising editorial control over CARE advertisements. . . ." To the extent that "conclusive" may imply an unwarranted burden on

---

*A copy of that ruling is appended (Attachment A).

complainants in cases as these, we will modify the Bureau's ruling striking "conclusive." The Bureau's decision, with which we agree, was based primarily on a finding that the licensees did not act unreasonably. The information before the Bureau did not show that there was any editorial control of the CARE advertisements by "the tobacco companies."

3. Except as modified above, we believe the Bureau's ruling was correct, and the Application for Review does not contain sufficient grounds to warrant a reversal of the ruling. Therefore, pursuant to Section 1.115(g) of the Commission's Rules and Regulations, the Application for Review IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION,
William J. Tricarico, Secretary.

ATTACHMENT A

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

01127

Oct. 30, 1980

IN REPLY REFER TO:

8330-H
C10-1275
C10-1264
C10-997
C10-768

Mr. Paul L. Loveday
Attorney at Law
Two Embarcadero Center, 24th Floor
San Francisco, California 94111

In re: Request for Declaratory Ruling by "Californians for Smoking and No Smoking Sections."

Dear Mr. Loveday:

This is in reference to the Request for Declaratory Ruling that you filed on October 17, 1980 on behalf of the "Californians for Smoking and No Smoking Sections" (the "Committee") concerning advertisements opposing Proposition 10 by "Californians Against Regulatory Excess" ("CARE"). The Committee states that Proposition 10 represents "a measure

placed on the November 4, 1980 California election ballot by the signature initiative process" which would "create smoking and no smoking sections in indoor public places." The Committee supports the adoption of the Proposition 10; CARE opposes its adoption.

Background*

It is the Committee's contention that CARE is acting as the "agent and alter ego" of the tobacco industry[1] since CARE derives substantially all or "virtually 100% of its funds from the industry[2] and has relinquished editorial control over its advertisements to the industry. Essentially, the Committee's contentions are based on the following: (1) CARE and "Californians for Common Sense," organized to oppose a similar ballot proposition in 1978, retained the same legal counsel and advertising firm and further involved similar campaign themes and strategies; (2) the four largest cigarette manufacturers are "acting in concert"

---

*Footnotes are at the end of this ruling.

by contributing funds to CARE according to their respective market shares in California, as was the case in 1978; (3) the tobacco industry took personal credit for defeating the 1978 ballot proposition;[3] (4) the four cigarette manufacturers "deferred massive spending on advertisements against Proposition 10 (until). . .the day after the cutoff date for disclosing campaign expenditures" allegedly to conceal their campaign involvement;[4] (5) CARE has employed former spokespersons for the Tobacco Institute to advocate its cause; and (6) Proposition 10 represents a "national campaign" launched by the tobacco industry to oppose restrictive legislation aimed at smoking, as evident by the activities in Dade County, Florida, where a similar ballot proposition is being considered.[5] The Committee also points out that CARE misrepresented its Board of Directors to the Californian licensees by including Mr. James Collins, the President of the California Restaurant Association, as a member. The Committee adds "only an exam-

ination of the files and records of Excess (CARE) can disclose how many other misrepresentations there are in Excess' (CARE's). . .letter to Station Managers."

The Committee concludes that given the significant financial support provided by the tobacco industry and its alleged control over the CARE campaign, the California broadcast licensees have not "adequately fulfill(ed) their obligations of reasonable diligence" and "have participated with the Tobacco Industry in acts of affirmative deception by running a sponsorship identification statement ("Tag-line") stating that such advertisements were 'Paid for by Californians Against Regulatory Excess' when in fact" they were paid for by the tobacco industry.[6] The Committee is requesting that the Commission: (1) declare that the sponsorship identification statement attached to CARE advertisements is "misleading" and in violation of Section 317(c) of the Communications Act and Section 73.1212 of the Commission's Rules and Regulations; and (2) direct

all California broadcast station licensees to identify all CARE advertisements as "paid for by the Tobacco Industry" rather than "Californians Against Regulatory Excess."

In support of its request, the Committee cites Amendment of the Commission's "Sponsorship Identification" Rules (Section 73.119, 73.289, 73.789 and 76.221), 52 FCC 2d 701 (1975); In re KOOL-TV, 26 FCC 2d 42 (1970); and United States v. WHAS, Inc., 385 F.2d 784 (6th Cir. 1967). The Committee distinguishes the instant case from VOTER, 46 RR 2d 350 (B/c. Bur. 1979) and National Welfare Rights Organization, 41 FCC 2d 187 (1973), since here the tobacco industry allegedly has exercised editorial control over CARE advertisements.

The Committee asserts that the time is of the essence, in light of CARE's "media blitz" during the final days before the election which has swayed voters to oppose Proposition 10, according to recent polls. The Committee believes that if the CARE advertisements are "properly" identified as paid for by the

tobacco industry, the "credibility" of such advertisements would be diminished in the eyes of the voters.[7]

On October 27, 1980, by its attorney, CARE filed its response.[8] CARE represents that it is a bona fide nonprofit corporation and political committee, with 12 Board members,[9] organized for the purpose of "educat(ing) California voters about excessive government regulation, and specifically, to oppose a California state ballot measure, supra, and contends that the California broadcast station licensees "have acted properly and within their discretion in concluding that (it) is the entity, and the only entity, they must identify as sponsor of (CARE's) political spot announcements." CARE asserts that it has "wholly and fairly disclosed its contributions under California's campaign reporting and disclosure laws" and although "the four tobacco companies are the major contributors," a fact which has been "widely publicized,"[10] CARE exercises "editorial control over its spot ads"

and "it is not controlled by the tobacco companies."

CARE rejects the allegations contained in the Committee's request and states that:

> (1) The campaign management of (CARE) is independent of any and all tobacco companies and any of its trade associations.
>
> (2) The use of (CARE) of some experts who have previously worked on anti-smoking campaigns, which employment was sometimes by design and sometimes by coincidence, is demonstrative of good management and not of conspiratoral intentions.
>
> (3) The allegations that (CARE's) campaign is similar to the 1980 Dade County Florida anti-smoking campaign is not at all substantiated and is false.
>
> (4) The allegations that (CARE's) campaign is similar to the California Proposition 5 campaign in 1978 is correct. Committee acknowledges that it is appealing to the residue of voter disapproval of Proposition 5.

CARE added that it has not retained any current employee of the tobacco companies or the Tobacco Institute, but for the voluntary work of two employees of the Institute, who assist in the "distribution of literature throughout California."

CARE included a declaration of Richard S. Woodward, a partner of the advertising firm retained by CARE, in which he stated that his firm has contracted with CARE to prepare scripts and submit them to that organization's Board and legal counsel for clearance. Mr. Woodward also stated that Mr. Nelson, the organizer and campaign manager of CARE, was on site during most of the production of the CARE advertisements.

CARE states that the Committee is asking the Commission to determine whether or not a political committee is an independent, bona fide organization. CARE further states that broadcasters have the responsibility "to exercise reasonable diligence to determine the identity of who paid for sponsored material." CARE concludes by stating, "to shift that responsibility to the Commission would literally place the Commission in the 'thicket' of all political campaigns. . . ."

On October 26, 1980, counsel for the Committee contacted a staff attorney of this

office. The Committee asserted that CARE's document prove that the tobacco industry directs the campaign strategy and exercises editoral control over the CARE advertisements, which it believes is essentially demonstrated by the following:

(1) On July 27, 1980 a CARE "Update" was sent to its committee from Mr. Bergland, Chairman of CARE, which discussed the filing of a lawsuit challenging statements concerning Proposition 10, prior to any Board meeting, indicative of the Board's lack of control over campaign strategy;

(2) There were only four Board meetings held, only one of which was in person, the remainder were telephonic. Only one of the four meetings had a quorum. Thus, CARE's representations to California broadcast station licensees that the Board "meets regularly" is incorrect and moreover, CARE's actions are not in compliance with its bylaws.

(3) The Board meetings were conducted on 8/26/80, 10/6/80, 10/13/80, 10/20/80. The advertising firm of Woodward, McDowell & Larson was retained in September and CARE's advertisements were being aired on 9/30/80. The time sequence suggests that CARE's Board did not meet after the advertising firm was retained and before the advertisements were completed and carried by the stations. The Committee maintains that the CARE Board did not have an opportunity to preview the advertisements and, thus, did not exercise editorial control over their content.

On October 27, 1980, counsel for CARE responded to the Committee's reply, during a phone conversation with a staff attorney of this office. CARE stated that, due to an oversight, it neglected to mention the Board's first organizational meeting which was held on June 16, 1980. In attendance were Mr. Bergland, Mr. Dohr and Mr. Benson. CARE also explained that a political committee which is comprised of individuals with diverse interests, occupations and responsibilities, unlike a private corporation or an on-going organization, often experiences difficulties in scheduling meetings and commanding appearances at such, which accounts for its irregular meetings. CARE, however, states that Mr. Bergland (Chairman and President of the Board), Mr. Dohr (Treasurer) and Mr. Nelson (Senior Campaign Manager and Organizer of CARE) meet regularly, supervise the campaign and exercise complete editorial control over CARE advertisements. CARE denies that the tobaco industry exercises any control whatsoever over the organization's activities or strategies.

Discussion

The thrust of this request is that the sponsorship identification statements attached to CARE advertisements are inadequate and improper under Section 317 of the Communications Act and Section 73.1212 of the Commission's Rules and Regulations. To summarize, the Committee contends that the tobacco industry--specifically, the four major cigarette manufacturers--are the actual sponsors of CARE advertisements and the true strategists behind CARE's campaign drive and should be identified as such; CARE asserts that it exercises control over all of the advertisements and the campaign, not the cigarette manufacturers, and that the sponsorship identification statements are correct. Both organizations have contacted the various broadcast station licensees throughout California to make their positions known. The issue presented is whether the California broadcast station licensees have failed to exercise reasonable diligence to

identify the sponsor of the CARE advertisements.

Section 317 of the Communications Act provides, in pertinent part, that:

> (a)(1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is broadcast, be announced as paid for or furnished, as the case may be, by such person. . .
>
> * * * * * * *
>
> (c) The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section (emphasis added).

The corresponding rule is contained in Section 73.1212 of the Commission's Rules and Regulations and provides, in pertinent part, that:

> (b) The licensee of each broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any matter for broadcast, information to enable such licensee to make the announcement required by this section.

* * * * * * *

(e) The announcement required by this section shall, in addition to stating the fact that the broadcast matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or valuable consideration is received, or by whom the material or services referred to in paragraph (d) of this section are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence as specified in paragraph (b) of this section, could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent (emphasis added).

The basic premise of the sponsorship identification requirements is that the public is entitled to know by whom they are being persuaded. VOTER, supra at 352; National Welfare Rights Organization, supra at 195; Applicability of Sponsorship Identification Rules, 40 FCC 141, 141 (1963).

Section 317 and Section 73.1212 impose a duty upon licensees to exercise reasonable

diligence to ascertain the identity of the sponsor of broadcast material. The obligation to exercise reasonable diligence to determine the actual sponsor of broadcast material, of course, does not cast licensees in the role of "insurers" as to the complete accuracy of sponsorship identification statements; they have an affirmative obligation to ascertain and identify the sponsor, no more--no less. National Welfare Rights Organization, supra at 195. The Commission's responsibilities in these matters is not to substitute its judgment for that of the licensees or to pass on the bona fide nature of an organization; rather the Commission, as a government licensing agency, reviews its licensees' decisions to determine if it can be said that they exercised reasonable diligence.

We believe that the Bureau ruling in VOTER, supra, is dispositive of this request. The case of VOTER concerned a ballot proposition (involving the establishment of a county public power system), in which advertisements

opposing the ballot were aired as being sponsored by a political committee ("Westchester Citizens"). The Committee was funded in substantial part or completely by the Consolidated Edison Company. The complainant argued that Con Edison should have been substituted or added to the sponsorship identification statement. The Committee admitted that it received substantial financial assistance from Con Edison, but maintained that it exercised editorial control over all of its advertisements.

After noting that "longstanding Commission policy has been that an entity paying for advertising time and editorial control over the message must be identified as the sponsor of the statement," the Bureau stated that:

> (W)e cannot conclude that any licensee, in evaluating the facts before it regarding the advertisement, failed to exercise reasonable diligence by accepting the representations of Westchester Citizens. The substantial proportion of Con Edison's role in Westchester Citizens funding might suggest a basis for further inquiry to some licensees. On the other hand the Westchester Citizens by-laws, represented assertion of editorial control over these advertisement, and the weight of precedent suggest that those licensees who accepted

> Westchester Citizens' advertisements as offered did so in good faith and without closing their eyes to any attempted misrepresentation. Indeed, some licensees may conclude, either on the facts thus far provided by the Westchester Citizens, or additional information not now before us, that, in its view, "Con Edison" alone is the appropriate identification. In such a case, we would have no basis for finding that the licensee has acted unreasonably (emphasis added). Id. at 352; see also, National Welfare Rights Organization, supra (announcements paid for by a private corporation, but controlled and directed by the American Academy of Pediatrics, were properly identified as "presented as a public service announcement by the American Academy of Pediatric").

In the same fashion, on the basis of all the information before us, we cannot determine that any California broadcast station licensee acted unreasonably by failing to exercise reasonable diligence in accepting the representation of CARE and ultimately airing the CARE advertisements as offered. On the other hand, if some licensees substituted the sponsorship identification statements with "Paid for by the Four Major Tobacco Companies," we would have no basis for concluding that they acted unreasonably.

The Committee submitted a rather voluminous record (consisting of studies, polls, newspaper articles and declarations) in an attempt to demonstrate that the tobacco companies are controlling CARE. While it has been shown that substantially all or "virtually 100%" of CARE's funds have come from the four major tabacco companies, a fact that CARE readily admits in its response, there has not been any conclusive evidence which establishes that the tobacco companies are exercising editorial control over CARE advertisements, or for that matter over CARE's entire campaign efforts or any other drive aimed at defeating similar legislation like that pending in California. More importantly, there has been no evidence that the California broadcast station licensees have dismissed this matter without exercising reasonable diligence to ascertain the true sponsor in compliance with their obligations under Section 317 and Section 73.1212.

Conclusion

Based on all of the foregoing, we cannot

conclude that any broadcast station licensee has violated the sponsorship identification provisions of the Communications Act or the Commission's Rules and Regulations. To hold otherwise would require this agency to investigate the nature of political committees organized to support or oppose an election matter (e.g., whether or not corporate formalities were adhered to), to second-guess broadcast station licensees' judgments and to rule on the basis of hindsight rather than reviewing licensees' decisions to determine if they acted reasonably and in good faith.

In closing, "we continue to urge caution and the exercise of reasonable diligence on the part of our licensees to take appropriate steps to ascertain the fullest factual information as to the true identity of political and controversial issue sponsors." VOTER, supra 352.

Due to the imminence of the election, pertinent parts of this ruling were relayed by phone conversation to the respective attorneys on October 30, 1980.

Staff action is taken here under delegated authority. Application for Review by the full Commission may be requested within 30 days of the release date of this letter by writing the Secretary, Federal Communications Commission, Washington, D.C. 20554, stating the factors warranting consideration and, if mailed, should be sent by certified mail. Copies must be sent to the parties to the complaint. See Code of Federal Regulations, Volume 47, Section 1.115.

SINCERELY,

STEPHEN F. SEWELL, Acting Chief,
COMPLAINTS AND COMPLIANCE DIVISION,
BROADCAST BUREAU

FOOTNOTES

[1]The Committee apparently refers to the four largest cigarette manufacturers in the country as comprising an "entity", known as the "tobacco industry". Such manufacturers include Lorillard, R.J. Reynolds Tobacco, Brown and Williamson Tobacco Co. and Phillip Morris.

[2]According to the Committee, approximately 99.6% of CARE's financing comes from the tobacco industry (the four major cigarette manufacturers and to a small extent the tobacco distributors; The Committee's figures are derived from the financial disclosure statements that CARE filed in California pursuant to California election laws.

[3]In this connection, the Committee enclosed a newspaper article, entitled "The tobacco industry: How it snuffed out Proposition 5." The article quoted Richard Woodward, of Woodward, McDowell and Larson (the advertising firm that was retained by "Californians for Common Sense" in 1978 and CARE in 1980) and Ed Grefe, vice president for public affairs of Phillip Morris, as describing their campaign strategy to defeat the 1978 ballot proposition in California. The Committee asserts that this indicates that the tobacco industry exercised control over the campaign and editorial control over the advertisements.

[4]A comparison of the financial disclosure statements covering the periods of "1/8/80 through 9/23/80" (executed 9/29/80 and "9/24/80 through 10/20/80" (executed of 10/23/80) shows that the major cigarette manufacturers did, in fact, channel more funds into CARE during the latter period, in the form of loans or otherwise. However, this fact alone does not demonstrate that the cigarette manufacturers attempted to conceal their "support" of CARE.

[5]With respect to the "national compaign," the Committee enclosed a copy of an article that appeared in the United States Tobacco Journal, shortly after the ballot proposition was defeated in 1978, which warned that the "the entire tobacco industry. . .has an important stake in what happens in the nation's most populous state--a state which incidentially accounts for more than 9% of the nation's cigarette consumption--impacts nationally (as with "Proposition 3")." In addition, the Committee points out that the tobacco industry has also significantly contributed to the "Floridans Against Increased Regulation" ("FAIR"). Moreover, the Committee represents that the same agents have been employed in both the prior and the current campaigns in Florida and California. In fact, the advertising firm of Woodward, McDowell and Larson was retained in both prior campaigns, but is now only working for CARE on the California proposition. Lance Tarrance was the only "agent" retained in all four campaign drives by the respective political committees. Finally, the Committee contends that the tobacco industry, in an effort to alleviate the effect of adverse legislation that appears to protect nonsmokers but in reality does not." As an example of such "diluted" legislation, the Committee attached a copy of the 1978 Greene Bill (SB 2026). The financing disclosure statement filed by "Californians for Common Sense" in 1978 reveals a payment of $20,000 to state Senator Bill Greene, but it does not specify what services were rendered. It should be noted that none of these representations conclusively substantiate tobacco industry involvement.

[6]The Committee attached correspondence that it sent to all the California broadcast station licensees, advising them of their obligations to exercise "reasonable diligence" to ascertain the true identity of the entity on whose behalf advertisements are purchased. The Committee proceeded to explain that virtually all the funds received by CARE are from the

out-of-state tobacco industry, and thus the tag line "Californians Against Regulatory Excess" is deceptive and should be substituted with the "tobacco industry." In their response, CARE attached correspondence that it sent to the licensees which denied allegations that it was operating as a "front" for any person, company or industry, admitted that it received "tobacco" funds, but emphasized that it maintained control over CARE advertisements and campaign strategies. The Committee forwarded letters received by several stations which essentially denied their request for substitution of tag-lines on CARE advertisements. It should be noted that a sponsorship identification statement referring to the "tobacco industry" may be deceptive and misleading, in that there is no particular entity known as such, and further that CARE is, in fact, incorporated in California and has Californians serving on its Board.

[7]The Committee cites two studies, the Roper Poll of 1978 commissioned by the Tobacco Institute and the Fairbanks/Canapary/Maullin Poll commissioned by CARE, which indicate that the tobacco industry's "credibility" is low. The Committee further claims that the tobacco industry is cognizant of their low esteem, which explains "their" desire to operate through a "front organization" like CARE.

[8]A copy of that response was sent to a staff attorney of this office of October 25, 1980, at her request.

[9]As mentioned before, Mr. Collins has denied that he was a member of CARE's Board of Directors. By declaration of Eileen Padberg, of Robert Nelson and Associates (Robert Nelson organized CARE), CARE represents that it was its understanding that Mr. Collins was, in fact, serving on the Board and that all notices of meetings and other informative data was forwarded to him, accordingly. Eileen Padberg also stated that Mr. Kiker participated in one telephonic Board meeting on Mr. Collin's behalf and at his request.

[10] Both CARE and the Committee have furnished the Commission with newspaper articles which report the influx of the tobacco industry's financial support.

APPENDIX C

Pages 37-47 of Petitioners' Opening Brief in the Court of Appeals showing that the Board of Directors of Californians Against Regulatory Excess had no editorial control over No on 10 advertisements

APPENDIX C

The following constitutes Section IV of Petitioners' Opening Brief in the Court of Appeals:

A. The No on 10 Campaign Management Firm Was Not Retained By The Excess Board Of Directors; Instead The Tobacco Industry's Campaign Management Firm Recruited The Excess Board Of Directors.

The most important decisions in any California statewide political campaign are the choice of a campaign manager and the choice of an advertising firm. The person or entity with the power to hire and fire the campaign manager and advertiser controls the campaign and its advertising. A declaration filed by Dobbs & Nielsen with the FCC proves that the Board of Directors of Excess was <u>not</u> the entity which retained the No on 10 campaign manager. A notice of an Excess Board meeting filed with the FCC by Dobbs & Nielsen together with reasonable inferences drawn from Dobbs & Nielsen's refusal to provide the FCC with minutes of Excess Board meetings demonstrate that the Board of Directors of Excess was <u>not</u>

the entity which retained the No on 10 advertising firm.

Eileen Padberg, the No on 10 co-campaign manager, stated in her declaration which was attached as an Exhibit to the Excess Opposition Brief that:

> I am a Vice President of Robert Nelson and Associates, Inc., the campaign firm retained to manage the opposition campaign to Proposition 10. When I was assigned to this account, Bob Nelson has already begun to organize the Board of Directors and a number of persons had already agreed to serve. Mr. Nelson had contacted:
>
> David Bergland, Chair, Libertarian National Committee
> John Seymour, President, California Association of Realtors
> Bill Dohr, Secretary, California Republican Party
> Marvin Wendt, Assistant Director of Patient Services, UCI Medical Center
>
> Once I began working on organizational matters of Californians Against Regulatory Excess, I contacted the following persons to serve as directors: (list omitted. Emphasis added.)[85]

---

[85] Declaration of Eilen Padberg on p. 152 of Joint Appendix.

Ms. Padberg's declaration makes clear that the No on 10 campaign management firm was "retained" by someone, but that the firm was not retained by the Excess Board of Directors. Quite the contrary, Ms. Padberg reveals that the Tobacco Industry's campaign managers recruited persons to serve on Excess' pro-forma Board after the campaign was under way. The declaration reveals that the campaign management firm already had a No on 10 "account" before the Excess Board of Directors was even formed. Ms. Padberg's declaration unwittingly demonstrates that the Excess Board of Directors were the creation of Robert Nelson and Eileen Padberg, professional campaign agents for the Tobacco Industry.

The notice of the sole Excess Board of Directors meeting held prior to the hiring of Woodward, McDowell & Larson to do the No on 10 advertising contained an agenda for that meeting.[86] No mention was made of a hiring

---

[86] The agenda for the Excess Board meeting was filed with the FCC as Exhibit M to the Excess Opposition Brief and is on p. 155 of the Joint Appendix.

of an advertising firm in such notice. Had the Excess Board considered which advertising firm it should retain during such meeting, it is certain that Dobbs & Nielson would have filed the minutes of such meeting with the FCC. They did not file such minutes because the Excess Board had no part in the decision to hire Woodward, McDowell & Larson. The Tobacco Industry had already made the choice.

B. Excess Records Show That The Excess Board Of Directors Did Not Fulfill Any Policy Making Or Supervisory Functions.

The broadcast stations relied upon Dobbs & Nielsen's statement that the "leadership and direction for (the No on 10 campaign) vests in its Board of Directors. . .which makes decisions and supervises the campaign management firm."[87] Excess records filed with the FCC demonstrate that the Excess Board members recruited by the campaign management firm were merely informed of policy decisions after the fact, but had no part in formulating those policy decisions.

---

[87] J.A. 122.

Excess was incorporated on June 12, 1980. Declarations by Eileen Padberg and by a Dobbs & Nielsen lawyer both state that the first meeting of the Excess Board of Directors was not held until August 26, 1980 -- two-and-one-half months after Excess' incorporation.[88] Thus, before members of Excess' Board had

---

[88] Both the Declarations of Eileen Padberg, the co-campaign manager for No on 10, and Barry Fadem, Esq. of Dobbs & Nielsen stated that the first Excess Board Meeting was on August 26, 1980. Such Declarations were attached as Exhibits N and Q to the Excess Opposition Brief and are on pp. 153 and 159 of the Joint Appendix. When the Broadcast Bureau called Dobbs & Nielsen's attention to their attorney's and Eileen Padberg's declarations, Dobbs & Nielsen responded to the Broadcast Bureau that "due to an oversight, it neglected to mention the Board's first organizational meeting which was held on June 16, 1980." See page 4 of Broadcast Bureau's Denial on p. 5 of the Joint Appendix. Review of the minutes of such "meeting" would demonstrate that the only action taken at such meeting was to adopt the boilerplate first meeting resolutions that Dobbs & Nielsen and every other law firm in California has stored in their word-processing machines. We would suggest that the "oversight" by the Dobbs & Nielsen attorney and Eileen Padberg resulted from the fact that the June 16, 1980 "meeting" most likely took place in the word-processing center of Dobbs & Nielsen.

their first meeting, the No on 10 campaign management firm Robert Nelson and Associates, Inc. made at least eight major decisions that would have been the subject of extensive discussion by Excess Board members had the Excess Board of Directors actually controlled the campaign. Robert Nelson and Associates, Inc. (i) brought and lost a major lawsuit,[89] (ii) determined who would do all the No on 10 public opinion polling and spent approximately $32,000 on polls, (iii) determined who would do the No on 10 legal work and incurred very substantial legal fees, (iv) paid itself $33,000 to $63,000 in consulting fees, (v) opened two offices and hired two large and well-paid campaign staffs, (vi) held a press conference, (vii) printed brochures, posters and fact sheets, (viii) wrote the argument

---

[89] The lawsuit, which was brought by Excess, resulted in a finding by Judge Perluss of the California Superior Court that numerous statements Excess made in its argument against Proposition 10 in the Voters Pamphlet distributed to all registered voters by the Secretary of State were "false and misleading". See n. 41 supra.

against Proposition 10 that was printed by the California Secretary of State and distributed in a voters pamphlet to the home of every registered voter in California, and (ix) received substantial contributions from the Tobacco Industry.[90] Despite these activities--many of which are considered crucial to a ballot proposition campaign in California, the Excess Board of Directors had never met.

Additional Excess records further demonstrate that the so-called "Board Members" did not formulate campaign policy. The records show that Board Members were not even consulted on crucial decisions, but were merely "updated" about major campaign decisions after those decisions were made. For example, the July 27, 1980 notice[91] informed the Excess Board Members that Excess would file a major lawsuit (which

---

[90] These facts are taken from Exhibit I to the Excess Opposition Brief which is on pp. 179-208 of the Joint Appendix.

[91] A copy of the July 27, 1980 notice to Excess Board members is on p. 155 of the Joint Appendix.

it subsequently lost) against Yes on 10 and would announce the lawsuit at a press conference. The notice did not call a meeting to discuss whether the suit should be filed or even invite input from Board Members. The same July 27th notice informed Board Members that there would be a "strategy update" at the first Board meeting. The notice did not state that the Board Members would formulate, discuss, or even approve strategy. Board Members were informed that they would merely be "updated" on strategy and were notified of major decisions that had already been made.

One person whom the Tobacco Industry attorneys represented to the stations as being an Excess Board Member reported during the campaign that he was competely unaware of his Board membership.[92] Another Excess Board Member, when asked by a television show moderator about the most fundamental issue facing campaign policymakers, campaign finance,

---

[92] See declaration on p. 160 of the Joint Appendix.

responded that she was only a volunteer and knew little or nothing about such things.[93]

C. Excess Records Show That The Excess Board Did Not Meet Weekly As Claimed By Dobbs & Nielsen In Its Letter To The Broadcast Stations.

The first actuall meeting of the Excess Board was on August 26, 1980, two and one-half months after Excess' incorporation. It is unlikely that another Board meeting would ever have been called had two letters from Yes on 10 counsel dated September 26, 1980 and October 3, 1980 not been sent to Stations Managers regarding advertising sponsorship identification. Immediately after receipt of those two letters, three Excess Board Meetings were called for October 6th, 13th and 20th. All three were telephonic meetings.[94] At none of the three

---

[93] A transcript of the relevant part of the television program is on p. 161-162 on the Joint Appendix.

[94] Declaration of Eileen Padberg, J.A. 153.

meetings was a quorum present.[95] The stations, having been put on notice of misrepresentations by Excess, could easily have verified the falsity of Dobbs & Nielsen's claim by requesting minutes of the Board meetings.

D. Excess Records Prove That The Excess Board Of Directors Had No Editorial Control Over No On 10 Advertisements.

The record demonstrates that the stations unreasonably relied upon Dobbs & Nielsen's misrepresentation that the Excess Board of Directors exercised editorial control over No on 10 advertising. The stations could have

---

[95] The conclusion that a quorum was not present at any of the telephonic "meetings" of the Excess Board of Directors on October 6, 13 and 20 comes from (i) Section 6 of Article IV of the Excess Bylaws, J.A. 167, which requires a simple majority of Board Members to constitute a quorum; (ii) the Excess Opposition Brief, J.A. 145-146, which represents there were twelve Excess Board members; and (iii) Exhibit N to the Excess Opposition Brief, J.A. 159, which shows that less than a majority of Excess Board members were on the line at each of the three telephone "meetings." Thus, it can be seen that Excess did not even observe corporate formalities. The so-called "Board of Directors" had only one meeting at which a quorum was present and at which it was permitted by the bylaws of Excess to conduct business.

determined the truth regarding such editorial control merely by consulting their own records regardings the commencement date of No on 10 advertisements and by asking simple questions of Excess representatives.

Excess records filed with the FCC show that Woodward, McDowell and Larson (the advertising firm which conceived, wrote, cast, produced and edited No on 10 advertising) was retained in September of 1980.[96] No on 10 advertisements were first aired on September 30, 1980.[97] Excess records show that the first actual Board Meeting of Excess took place on August 16, 1980 (before Woodward, McDowell and Larson was retained and before that firm began to conceive and write advertising copy), and the second purported Excess Board Meeting (at which no quorum was present) was held on October 6, 1980 (after the No on 10 advertise-

---

[96] See Declaration of Richard S. Woodward, J.A. 17.

[97] See Declaration of Robert DeVries, J.A 89.

ments were already on the air).[98] Since the Excess Board Members did not meet between the time Woodward, McDowell and Larson was retained and the time No on 10 advertisements were on the air, it is obvious that the Excess Board not only had no advertising editorial control, but that the Board was not even shown the No on 10 advertising spots until they were already aired.

E. The Attorneys for the Cigarette Manufacturers Admitted to the FCC the Falsity of Their Statements Upon Which the Stations Unreasonably Relied.

The failure of the stations to exercise due diligence is underscored by the admission by Dobbs & Nielsen that their statements upon which the stations relied were false. In an October 27, 1980 telephone conversation, an FCC attorney confronted Dobbs & Nielsen with the facts stated above. Dobbs & Nielsen promptly changed its position regarding editorial control by the Excess Board of Directors and

---

[98] See Declarations of Eileen Padberg and Berry Fadem, Esq., J.A. 153 and J.A. 159, respectively.

admitted that the No on 10 campaign experienced "difficulties in scheduling meetings and commanding appearances" of Excess Board Members.[99] Despite the admission of its prior falsehood, Dobbs & Nielsen nevertheless asked the FCC to believe its denial "that the Tobacco Industry exercises any control whatsoever" over No on 10 advertisements."[100] Although admitting the Board of Directors had no such editorial control, Dobbs & Nielsen asked the FCC to believe that such editorial control resided in Robert Nelson (who was hired and paid by the Tobacco Industry) and in two members of the Excess Board.[101]

F. Neither Dobbs & Nielsen (the Cigarette Manufacturers' Attorneys) Nor Excess Spokespersons Should Be Believed.

Due to the September 26 and October 3, 1980 letters from Yes on 10 counsel,

---

[99] See page 4 of Broadcast Bureau's Denial on p. 5 of Joint Appendix.

[100] See p. 4 of Broadcast Bureau's Denial on p. 5 of Joint Appendix.

[101] Id.

the stations were on notice that Excess was involved in a scheme to deceive and that Excess had already lied regarding Tobacco Industry involvement in the campaign. It was not an exercise of reasonable diligence for the stations to accept the misrepresentations of Excess or Dobbs & Nielsen since the stations could easily have determined those statements to be false. Nor should the Court accept Dobbs & Nielsen's denials of Tobacco Industry editorial control, given the long list of misrepresentations by Dobbs & Nielsen and Excess spokepersons which are chronicled on pages 9-13 supra, and the apparent perjury of Vigo Nielsen during the 1978 Proposition 5 campaign:

On August 11, 1978, Vigo Nielsen testified in a California court of law that he did not remember who it was who asked him to incorporate and to represent Californians for Common Sense (the Tobacco Industry's equivalent of Excess in the 1978 Proposition 5 campaign)

and that he did not know whether Californians for Common Sense was "represented or in any way associated with the Tobacco Industry".[102] Mr. Nielsen made this statement after his firm prepared the campaign financing disclosure statements revealing (i) that virtually all monies transferred to Californians for Common Sense came from the Tobacco Industry, (ii) that the Tobacco Institute, the trade organization of the Tobacco Industry, had established Californians for Common Sense, (iii) that Dobbs & Nielsen represented the Tobacco Institute and (iv) that Vigo Nielsen was the Treasurer of the Tobacco Institute's No on 5 campaign committee.[103]

---

[102] See transcript of California Superior Court hearing on pp. 45-50 of Joint Appendix.

[103] See the Tobacco Institute's No on 5 campaign finance disclosure statements, J.A. 305 and analysis and backup of the No on 5 campaign's spending J.A. 297-355. As corroboration of the financial disclosure statements, see the Declaration of Richard Woodward in which he admits he was hired by the Tobacco Institute, J.A. 16.

G. The Excess Opposition Brief Failed to Cite One Example of the Exercise of Editorial Control of No on 10 Advertising by Any Excess Board Member.

The No on 10 advertising was done by Woodward, McDowell and Larson, the principals of which were introduced at the American Association of Political Consultants as "campaign strategists for the Tobacco Industry."[104] The use of "the campaign strategists for the Tobacco Industry" by the No on 10 campaign is evidence of Tobacco Industry editorial control of No on 10 advertising. Furthermore, Woodward, McDowell and Larson conceived, wrote, cast, directed and edited the No on 10 spots without any input from any Excess Board Members (including the two "Board Members" whom Dobbs and Nielsen mentioned in its October 27th conversation with an FCC staff attorneys). Moreover, no Excess Board Members made changes to advertising copy of the spots.

---

[104] J.A. 56.

The most noteworthy aspect of the No on 10 submissions to the FCC is the glaring omission of even one citation of a specific example of the exercise of advertising editorial control by any Excess Board Member. For example, the Declaration of Richard Woodward discusses the process by which No on 10 spots were created, but is silent as to any actual input or control by Excess Board Members. Mr. Woodward does state in his Declaration, however, that "Robert Nelson was on site most of the time during casting, shooting and postproduction of this advertising."[105]

Robert Nelson is the campaign manager who was retained and paid by the Tobacco Industry to oppose Proposition 10. Although, as Ms. Padberg's Declaration indicates, he recruited the Board members of Excess, he himself was not a director of Excess. The mere presence of Robert Nelson during the spot filming process is no indication that Excess was independent of the Tobacco Industry. Even a representation

---

[105] See Declaration of Richard Woodward, J.A. 17.

that Robert Nelson was more than just present (i.e. an allegation that he participated in advertising decisions) would be irrelevant to the question of editorial control by the Tobacco Industry since Robert Nelson was an agent of the Tobacco Industry.

APPENDIX D

Letters from Yes on 10 to Stations

(1) Letter dated September 26, 1980 from Yes on 10 counsel to stations

(2) Letter dated October 3, 1980 from Yes on 10 counsel to stations

APPENDIX D

Law Offices
Richard J. Kalish
Bank of America Center
555 California Street
San Francisco, California 94104

September 26, 1980

Dear General Manager:

I represent Californians for Smoking and No Smoking Sections ("Yes on 10"), the nonprofit group that is sponsoring the initiative measure which will be Proposition 10 on the statewide November 4 ballot. This is to notify you of certain facts pertaining to commercial messages that have been or may be placed with your station by Californians Against Regulatory Excess ("Excess"), the group which is representing the Tobacco Industry in its opposition to the passage of Proposition 10.

It has come to the attention of Yes on 10 that Excess is making buys of television and radio time costing far beyond its resources

as reported in Excess' most recent campaign disclosure statement filed with the California Fair Political Practices Commission. During the 1978 campaign on a similar ballot measure (Proposition 5), fully 99.9% of the $6½ million spent against Proposition 5 came from one source: the Tobacco Industry. Based on the activities of Excess in this campaign, it is apparent that the money used by Excess to purchase the messages on your station comes virtually exclusively from the Tobacco Industry.

A series of Federal Communications Commission and Federal Court decisions clearly establishes your responsibility as a broadcast station to use reasonable diligence to discover the persons or entities who are acutally paying for paid political messages run by your station and to adequately disclose to the public in each such message the identities of such persons or entities. In fact, the FCC Identification Rule (set forth at 45 CFR 72.1212) actually goes even further, requiring:

> "Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence...could be known by the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent."

Accordingly, as in 1978, whenever the local campaign committee acts merely as a conduit for the funds of the Tobacco Industry for purchasing air time, you are obligated both to discover and to disclose the fact of the Tobacco Industry's sponsorship of the advertising so the public can know "by whom it is being persuaded." In re KOOL - TV, 26 FCC 2d 42 (1970).

You are obligated to make reasonable efforts to go beyond the apparent sponsor of the political message and to determine the true source of such advertising funds. See United States v. WHAS - TV, 385 F. 2d 784, 788 (6th Cir. 1967), and the resulting amended FCC administrative regulation at 45 CFR 73.1212, which the FCC has explained as follows:

> "To clear up any misunderstanding about whether the statute and rules require a licensee, who knows, or has reason to know the facts, to adequately identify the person or persons paying for...the material broadcast...Where a political broadcast is presented...by a committee which is really a compaign instrumentality for a candidate or a political organization, the public should be made plainly aware of the latter fact."

Furthermore, in view of the fact that the money supplied to Excess by the Tobacco Industry comes almost in its entirety from sources outside of California, it would be affirmative deception to attach a tag-line to such Tobacco Industry broadcasts identifying the sponsor as a California entity.

Yes on 10 hopes and expects that you will perform your obligations as set forth in these regulations in the event that you choose to accept any of the political messages purchased by the Tobacco Industry through its agent, Excess. Yes on 10 is prepared to file complaints with the FCC and to take whatever other remedial action may be available if these regulations are not followed.

In addition, if has come to the attention of Yes on 10 that the magnitude of the commercial time purchases already made or about to be made by the Tobacco Industry through its agent, Excess, is presently far beyond the financial capacity of Yes on 10 to match. Although Yes on 10 fundraising is proceeding with the goal of being able to purchase some amount of air time in the final two weeks of the campaign, please take notice that Yes on 10 requests under the Fairness Doctrine (as enunciated in Cullman Broadcasting, 40 FCC 576 and Public Media Center, 72 FCC 2d 776) that your station provide Yes on 10 time for messages without charge and in a time period of comparable audience exposure to the paid messages purchased by the Tobacco Industry through its agent, Excess. Yes on 10 expects the ratio of free messages to paid messages to be no poorer than 1:2. Yes on 10 further requests that you notify it immediately should you choose to sell any time to the

Tobacco Industry through it agent, Excess, so that Yes on 10 may make prompt arrangements for the Fairness Doctrine time due it.

A form is enclosed for your convenience.

Telephone responses may be made to:

Celia Du Bose
2054 University Avenue
Suite 600
Berkeley, CA 94704
(415) 841-3032

Very Truly yours,

Richard J. Kalish

cc: Paul Loveday, Esq.
Charles Firestone, Esq.
Daniel Lowenstein, Esq.
Susan Jacoby, Esq., Center for Law and the Public Interest
Geoffrey Cowan, Esq., Center for Law and the Public Interest
Peter Hanauer, Esq.
Robert de Vries, Esq.
Michael Asimow, Esq.
Andrew Schwartzman, Esq., Media Access Project

(THIS PAGE INTENTIONALLY LEFT BLANK)

APPENDIX D

Law Offices
Richard J. Kalish
Bank of America Center
555 California Street
San Francisco, California 94104

October 3, 1980

Re: Sponsorship Identification

Dear General Manager:

In my September 26, 1980 letter to you on behalf of Californians for Smoking and No Smoking Sections ("Yes on 10"), I notified you of evidence that Californians Against Regulatory Excess ("Excess") has been acting as an agent of the Tobacco Industry in purchasing air time from your station for advertisements urging a "no" vote on Proposition 10. I also notified you of your duty under the FCC Sponsorship Identification Rules both to use reasonable diligence to discover the persons or entities who are actually paying for paid messages run by your station and to announce before or immediately after the broadcast of each such advertisement that such advertisement was "paid for by the tobacco industry".

The following facts, which are critical to your fulfilling your due diligence and other obligations under the FCC Sponsorship Identification Rules, leave no doubt that Excess is merely acting as a conduit for the funds of the Tobacco Industry for purchasing air time against Proposition 10:

1. During the 1978 campaign on a similar California ballot measure (Proposition 5), fully 99.4% of the $6½ million spent against proposition 5 came from one source: the Tobacco Industry.

2. After that election, research by Mervin Field, who conducts the highly respected California Poll, was published concluding that:

> "...with Proposition 5, the fact that the tobacco industry was spending as much as it was to defeat it, became an issue. There was sort of a counter trend in the closing days of the campaign. If the tobacco industry had spent a couple million more dollars, it might have lost the election.."

3. In the Proposition 10 campaign now in progress, the Tobacco Industry has implemented a calculated policy to deceive as many California voters as possible as to the very fact of the Tobacco Industry's involvement in the no on 10 campaign and as to the amounts spent by the Tobacco Industry against Proposition 10 by:

(a) utilizing a front organization with the name Californians Against Regulatory Excess:

(b) causing a professionally managed campaign operating under the name Californians Against Regulatory Excess to make numerous public and private statements either to the effect that the Tobacco Industry would not be involved in the Proposition 10 campaign or that it was uncertain whether the Tobacco Industry would be involved and that if the Tobacco Industry were not involved, Californians Against Regulatory Excess could run a viable campaign without tobacco money;

(c) causing Woodward, McDowell and Larson (the advertising firm which wrote and produced the advertisements against proposition 5) to write and produce advertisements against Proposition 10 containing a sponsorship identification statement ("tag-line") of "Paid for by Californians Aginst Regulatory Excess";

(d) refraining from spending any money on advertising against Proposition 10 until September 24, 1980, the day after the cut-off date for disclosing campaign expenditures to the California Fair Political Practices Commission ("FPPC"). Under California law, all moneys spent by the Tobacco Industry through its agent Excess after September 23, 1980 need not be disclosed to the FPPC until 10 days before the election; and

(e) transferring very large amounts to Excess promptly after September 23, 1980 and causing Excess to buy very large amounts of advertising air time promptly after September 23, 1980.

4. The campaign spending disclosure statement filed by Excess with the FPPC for the period ending September 23, 1980 disclosed that 98% of the money transferred to Excess ($378,262 of a total of $389,099) came directly from the Tobacco Industry.

5. The campaign spending disclosure statement (together with copies of Excess mailings in the hands of Yes on 10) reveal that the small sums given to Excess from non-tobacco sources resulted from a mailing financed by the Tobacco Industry. The mailing requested each recipient to make a contribution of only $3.00 to Excess. Direct mail fundraising experts have advised Yes on 10 that given the economics of direct mail, such a mailing would have resulted in a net loss and that the sole purpose of such a mailing could only be for the political purpose of enabling Excess to claim that it has received numerous small contributions.

6. In the the days since September 23, 1980 the Tobacco Industry through its agent Excess has already purchased air time costing approximately one million dollars. Yes on 10 is convinced that the exercise of reasonable diligence by your station would determine that all of such air time has been paid for by the Tobacco Industry. Yes on 10 is convinced that the exercise of reasonable diligence by your station would determine that, as of today, 99.2% of the moneys transferred to Excess have one source: the Tobacco Industry.

7. All but $3,000 of the money supplied to Excess by the Tobacco Industry comes from sources outside of California.

In light of such facts and in light of your duties set forth in the FCC Sponsorship

Identification Rules, the cases and authorities interpreting those Rules cited in my September 26, 1980 letter, and in the Federal Register, Vol. 40, No. 82 at 18395, your station's concurrence in broadcasting No on 10 advertisements with a tag-line of "Paid for by Californians Against Regulatory Excess: would be participation in an act of affirmative deception.

Yes on 10 hereby requests, to the extent your station accepts any of the messages purchased by the Tobacco Industry through its agent Excess, that your station require the tag-line of "Paid for by the Tobacco Industry" on all such messages.

Please give this matter your immediate attention. We intend to file a complaint with the FCC and to pursue whatever legal remedies that are available with respect to broadcast stations which continue to run the deceptive and improper tag-line after Wednesday, October 8, 1980.

Very truly yours,

Richard J. Kalish

cc: Paul Loveday, Esq.
Charles Firestone, Esq.
Daniel Lowenstein, Esq.
Susan Jacoby, Esq., Center for Law and the Public Interest
Geoffrey Cowan, Esq., Center for Law and the Public Interest
Peter Hanauer, Esq.
Robert de Vries, Esq.
Michael Asimow, Wsq.
Andrew Schwartzman, Esq., Media Access Project

APPENDIX E

Letters from No on 10 to stations

(1) Letter dated October 2, 1980 from No on 10 Chairman to stations

(2) Letter dated October 13, 1980 from No on 10 counsel to CBS, Inc.

APPENDIX E

CARE
Californians Against Regulatory Excess
1633 E. Fourth St., Suite 286
Santa Ana, CA 92701

October 2, 1980

Dear Station Manager & Legal Counsel:

I am the Chairman of the Board and President of Californians Against Regulatory Excess, the California non-profit corporation and political committee organized to educate Californians about excess government regulation and specifically to oppose Proposition 10 on the Novermber 4, 1980 ballot, which purpose has been registered with the California Secretary of State as required by law.

Legal counsel to our Committee has informed me that a number of stations have received a letter from Richard J. Kalish, a San Francisco attorney, arguing that radio and television advertising by our Committee is, in fact, advertising by tobacco companies and should be so identified.

The legal response to Mr. Kalish's arguments is attached. Demonstrated here, it seems clear to me that the proper identification of our radio and television spots is "Paid for by Californias Against Regulatory Excess" because our Committee, and only our Committee is, in fact, the sponsor.

Our Committee is not a front for any person, company or industry. This letter, therefore, summarizes facts about our Committee so that our advertising can be aired as we have produced it.

Early in the summer of this year, Bob Nelson, President of Robert Nelson & Associates, an eminently qualified political campaign firm, Bill Dohr, Secretary of the Republican party, and I met to discuss what type of broad coalition could be organized to oppose Proposition 10 and what funding could be obtained. We learned early on that some tobacco companies would probably contribute some amount for seed money but that they were not planning to participate to the

extent of 1978 and that they wanted to see whether there was sufficient opposition in California. We did receive some early contributions to allow us to contact other for support.

The three of us worked on forming a Board of Directors that represented the industries most affected by Proposition 10 and those leading citizens whose presence would indicate the breadth of opposition which we planned to mobilize. The Presidents of the California Real Estate Association, California Hotel & Motel Association, California Restaurant Association, and California Tobacco & Candy distributors Association became Board members, as did the State Director of the National Organization of Women, the former Republican State Controller, a Democratic California Assemblyman, the Assistant Director of Patient Services, University of California at Irvine, a Past President of the American Lung Association of Los Angeles County and the President of the Peace Officers Research Association of California. This

Board meets regularly to discuss campaign activities, and Bill Dohr and myself, as the senior Officers, provide direction to Bob Nelson and the staff of Californians Against Regulatory Excess. None of these Board members receives any compensation for this service. I have never had any contact with any representatives of the tobacco companies and am opposing Proposition 10 because of my strong personal motivation to oppose excess goverment regulation.

To my knowledge, no Board member is paid anything by any tobacco company.

The Committee is properly organized as a non-profit corporation, we have received tax exempt status from the IRS and California Franchise Board, and we follow all the formal and prudent operating procedures required of California corporations.

We have retained staff and consultants to draft advertising copy, but our Committee employs legal counsel to review every word

and fact to ensure its accuracy. We have not delegated editorial control to anyone, certainly not to any contributor.

We are soliciting support and contributions primarily by mail and so far we have received responses from 4,387 Californians and contributions from 1,607. And recently we again solicited a number of tobacco companies.

A consequence apparently not anticipated by the tobacco industry was that their decision not to form their own committee was interpreted to mean that Proposition 10 was acceptable legislation. This made our organizing efforts much more difficult, and Bob Nelson informed these companies of these facts and the fact that the misleading information published by the proponents of Proposition 10 was not being countered adequately.

Within the last month, a number of tobacco companies have contributed to our Committee and pledged their support to defeat this vague and misleading initiative. They

join the California Chamber of Commerce, the California Manufacturers Association, the Peace Officers Research Association, the National Federation of Independent Business, the Libertarian Party, of which I am the National Chairman, and the California Republican Party in opposing Proposition 10.

The Officers of Californians Against Regulatory Excess have discussed the request by Mr. Kalish. We conclude that being forced to identify our campaign advertising as a product of "The Tobacco Industry" would be inaccurate and in dereliction of our duty to our Board. Our organization plans to receive contributions from thousands of Californians and support from millions of voters and assistance from major organizations and associations throughout the state. To identify these people as a "front" for the tobacco industry is neither correct nor proper.

If you have any further questions, please do not hesitate to contact any one of the Californians Against Regulatory Excess offices, and I will try to respond as quickly as possible.

Very truly yours,

David P. Bergland
Chairman & President

DPB:ns

cc: Member of the Board
Californians Against REgulatory Excess

APPENDIX E

DOBBS & NIELSEN
Attorneys and Counselors at Law
SUITE 2500, THE ALCOA BUILDING
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111

Telephone (415) 362-1940

October 13, 1980

Rosalyn Brassell, Esq.
Assistant General Counsel
CBS, Inc.
7800 Beverly Blvd.
Los Angeles, CA 90036

RE: No on Proposition 10 spots

Dear Ms. Brassell:

You have asked this office to provide additional information in response to a letter received from Richard J. Kalish, attorney for the Yes on 10 campaign, dated October 3, 1980 entitled "Sponsorship Identification".

Mr. Kalish's letter alleges that our client, Californians Against Regulatory Excess (hereinafter "Committee") is acting as an agent of the "Tobacco Industry". He states this fact in every other sentence, apparently on the

behalf that if he says it often enough, the repetition of the accusation will make it fact.

Based on all the information provided me by the Committee, we see no way that such agency can be established.

The leadership and direction for the Committee vests in its Board of Directors, whose names and titles are set forth on the enclosed brochure. This board meets weekly, makes decisions and supervises the campaign management firm, Robert Nelson and Associates, Inc., which has been retained by the Committee to educate the voters on Proposition 10.

We cannot comment specifically on the alleged motivation and policy of the "Tobacco Industry" as stated in Mr. Kalish's letter since we have no knowledge. However, it is true that once it became evident that the stand-offish position adopted by the tobacco companies was being interpreted as acceptance of the restrictions imposed in Proposition 10, the Committee personnel were successful in soliciting contributions from various tobacco

companies. In fact, a number of tobacco company representatives have quizzed our chairman extensively on the campaign being conducted by the Committee prior to making decisions on certain levels of support.

It should also be remembered that the Committee has just begun to solicit throughout California, and within the last weeks it has sent out over 25,000 contribution letters to organizations other than those already supporting the No on Proposition 10 campaign. All contributions received will be reported on the next campaign statement.

The contribution pages of the Committee's campaign report filed on September 29, 1980, disclosing all transactions through September 23, 1980, are attached for your scrutiny.

As discussed in the legal memorandum prepared by this office, which accompanied Mr. Bergland's letter to all stations in response to Mr. Kalish's original letter, the most recent and only FCC decision directly on point is the V.O.T.E.R. case which explained that the

controlling factor is separateness of entities and not source of funding. The Committee's Board in its most recent meetings has re-affirmed that it will not identify its spots as being the spots of another entity or industry, because this would not be truthful.

It is obvious that Mr. Kalish is writing this second letter to all stations in preparation for filing a general complaint with the FCC against all California media, as indicated by his intimidating inclusion of nine attorneys as recipients of copies of his letter to stations. Unfortunately, it has become common place these days for such diversionary tactics. As the old law school saying goes: "When you have the facts, pound on the facts, when you have a law, pound on the law, when you have neither, pound on the table", or in this case, file a complaint with the FCC.

If you wish any further information please do not hesitate to contact me, contact any of the officers or Board members of Californians Against Regulatory Excess, or contact Robert

Nelson or Eileen Padberg at the Californians Against Regulatory Excess headquarters (see brochure).

Very truly yours,

Vigo G. Nielsen, Jr.
Corporate Counsel
Californians Against
Regulatory Excess

VGN:sg: Encls.
cc: David Bergland
William Dohr
Robert Nelson
Louise Olsen, Western International (w/o encls.)

bc: Mary Woodward
Chuck Bell

APPENDIX F

Declaration of Patricia Leddy, former media consultant to the Tobacco Institute, showing that the Tobacco Institute had editorial control over No on 10 advertisements

APPENDIX F

DECLARATION OF PATRICIA LEDDY

I, Patricia Leddy, declare:

1. I am the owner of Leddy Film Productions and in that capacity I am engaged in the business of public relations, advertising and film making. I reside in Bakersfield, Kern County, California and have offices in Bakersfield and Santa Barbara, California. The facts contained in this Declaration are in my own personal knowledge and, if called upon, I could testify competently thereto.

2. In August of 1982 I was contacted by Stan Harper of Harper Associates, a public relations firm in Bakersfield, with respect to the production of television and radio advertisements against Measure A on the November 2, 1982 Kern County ballot. Measure A concerns the establishment of smoking and no smoking sections in indoor public places and places of employment in Kern County.

3. Mr. Harper informed me that his firm had been retained by Stu Spencer of the

political consulting firm Spencer-Roberts in Orange County, California.

4. I was initially told by Mr. Harper that I would have a $20,000 budget with which to work. Based on that budget and believing that I would be primarily responsible for preparing and implementing campaign advertising in the media, I prepared a written proposal for an advertising campaign which I presented to Mr. Harper. I did not receive any formal response to my proposal, and my proposal has not been implemented by the campaign which opposes Proposition A.

5. After being contacted by Mr. Harper to work on behalf of the "No on A" campaign, I was asked to and did attend a No on A strategy session on Wednesday, September 22, 1982 at 11:30 A.M. at the Hyatt Regency Hotel in Los Angeles, California. Prior to the meeting I received via the mail the agenda attached hereto as Exhibit A. Present at the September 22 meeting, in addition to myself, were Tim Grush from Spencer-Roberts, Stan Harper, Chuck Rund of the Houston public opinion polling firm

of V. Lance Tarrance & Associates, Hal Larson, a political consultant from San Francisco, an assistant to Hal Larson who was called "Martha", two attorneys from the law firm of Dobbs & Nielsen and Stu Spencer, who arrived late but chaired the meeting and dominated the discussion.

6. Because Stu Spencer had not yet arrived, Chuck Rund spoke first. Mr. Rund distributed to each person at the meeting a copy of the public opinion poll which is attached hereto as Exhibit B. He said that his firm had conducted the poll in Kern County in connection with the November election campaign. Mr. Rund then summarized the polling data and the conclusions his firm had drawn from that data. He explained, among other things, that the polling data indicated that public awareness of the Tobacco Industry's association with the No on A compaign would drive a substantial number of voters into the "yes" column.

7. By the time Tim Grush had finished speaking, Stu Spencer had arrived and took control of the meeting. Mr. Spencer complained that it was very difficult to work with Tobacco Industry executives on campaigns against smoking and no smoking section initiatives. He complained that Tobacco Industry executives demanded control over campaign media advertising decisions and would not allow important actions relating to media advertising to be taken without their explicit prior approval. At one point in the meeting Mr. Spencer said, to the best of my recollection, the following to me:

> "We've got to get these Tobacco Industry executives off our backs during this campaign. You have no idea how difficult it is to please them."

8. Stu Spencer told the meeting that scripts for television and radio advertisements to be used in the No on A campaign should be modeled on the television and radio spots used in the 1980 Proposition 10 campaign. He further stated (i) that the Tobacco Institute

executives are accustomed to working with Hal Larson, (ii) that they like him and have had success in using his work against other smoking and no smoking sections campaigns, (iii) that it would be easier to get Tobacco Industry approval for use of new spots in the No on A campaign if they are similar to the advertisements which had been written by Hal Larson and which had already been approved by Tobacco Institute executives for use in the Proposition 10 campaign, and (iv) that it would expedite obtaining the Tobacco Institute's approval if the script bore Hal Larson's name. Mr. Spencer also stated that he believed he would be able to obtain decisions from the Tobacco Institute regarding media advertising scripts in this campaign faster in this campaign than in past campaigns because his contract with the Tobacco Institute for this campaign specified that the Tobacco Institute must approve or disapprove scripts within 72 hours after receipt by the Tobacco Institute.

9. During the meeting we listened to and watched radio and television advertisements which had been used against Proposition 10 on the 1980 Statewide ballots. Thereafter, I protested to Chuck Rund that a campaign based on those scripts would not be successful in Kern County. I expressed my belief that the scripts were an insult to the intelligence of Bakersfield citizens who are more sophisticated than Hal Larson apparently believed and who do not like carpetbaggers.

10. Nevertheless, it was agreed at the meeting that Mr. Larson and I would write new scripts which would be completed and approved by Stu Spencer by Monday, September 27, 1982, that Stu Spencer would immediately have the scripts delivered to the Tobacco Institute in Washington, D.C., and that I would begin producing the advertisements immediately after the scripts had been approved by the Tobacco Institute. It was expected that such approvals would be obtained, if at all, by Thursday, September 30, 1982.

11. I was told that after the scripts were approved by the Tobacco Institute, I was to work the entire following weekend if necessary to produce the advertisements. When I suggested that it would be very expensive to do production work during the weekend because I would have to pay overtime to many people, I was told by one of the attorneys of Dobbs & Nielsen to pay the overtime. I was repeatedly told that the Tobacco Industry has plenty of money and that expense was not a consideration in the work I was being asked to do. When I repeated that what I was aksed to do was very expensive, and again asked what my budget was, I was told that $100,000 had been budgeted by the Tobacco Institute.

12. Prior to the meeting, Stan Harper had told me that it was necessary for the No on A campaign to raise $1,000 from Kern County citizens in order for No on A to appear to be a legitimate local campaign. During the September 22 meeting, however, when this subject was raised, Stu Spencer advised us not

to be concerned about actually raising such funds locally because, if necessary, he would get that amount from some other source.

13. On September 24, 1982 I spoke on the telephone with Tim Grush of Spencer-Roberts, who told me that I was being dropped from the No on A campaign. He said that I should not take my dismissal personally. "It's like the Mafia," he said. "It's strictly business."

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 30, 1982 at Bakerfield, California.

Patricia Leddy

An executed copy of Patricia Leddy's Declaration has been lodged with the Clerk of this Court.

83-399

RECEIVED
SEP 22 1983
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Paul Loveday and Californians for Smoking and No Smoking Sections, Petitioners v. Federal Communications Commission and the United States, Respondents.	No. 81-2061 ON PETITION FOR REVIEW OF ORDER OF FEDERAL COMMUNICATIONS COMMISSION

JOINT APPENDIX

Cal P. Saunders
Counsel
Federal Communications Commission
Washington, D.C. 20554

Robert B. Nicholson, Assistant Chief
Niel R. Ellis, Attorney
Department of Justice
Washington, D.C. 20530

Attorneys for Respondents

PAUL L. LOVEDAY

Two Embarcadero Center
24th Floor
San Francisco, CA 94111

Attorney for Petitioners

Dated: March 31, 1982

LODGING

JOINT APPENDIX
TABLE OF CONTENTS

Document	Tab	Page(s)
Order of Full Commission Released August 7, 1981	A	1
Broadcast Bureau's Denial	B	2-11
Copy of Proposition 10	C	12-13
News Release from California's Fair Political Practices Commission	D	14-15
Richard S. Woodward Declaration	E	16-18
Yes on 10's Request for Declaratory Ruling	F	19-41
Tobacco Institute's Denial of Knowledge or Part in No on 5 Campaign as reported in New York Times March 16, 1978	G	41A
Campaign finance disclosure statement filed by Tobacco Institute showing that before March 10, 1978 Tobacco Institute had (i) spent $61,688 against Proposition 5, (ii) had hired No on 5 campaign manager and (iii) hired Dobbs & Nielsen	H	42
Official Court Reporter's Transcript of Vigo Neilsen's apparent perjury	I	45-50
Declaration re John Greenagel's misrepresentations that he was volunteer spokesman for No on 5	J	51
Pages from campaign finance disclosure statement of No on 5 campaign showing payments to John Greenagel for professional services	K	52-54
Quote of Mervin Field in PSA Magazine July 1980	L	55

Document	Tab	Page(s)
Copley News Service report of Tobacco Industry taking credit for defeat of Prop. 5	M	56
United States Tobacco Journal editorial about defeat of Prop. 5 and need for tobacco industry to defeat future California initiative	N	57
Relevant Pages of "A Study of Public Attitudes Toward Cigarette Smoking and the Tobacco Industry" by the Roper Organization	0	58-70
Pertinent page from campaign finance disclosure statement of No on 5 Campaign showing $20,000 paid by No on 5 Campaign to State Senator Bill Greene	P	71
Copy of Greene Bill	Q	72-79
Sacramento Bee editorial April 15, 1980 against Greene Bill	R	80
ASH Newsletter's July-August 1980 report of Tobacco's Industry's equivalent to Greene bill in Dade County, Florida	S	81
Declaration re statement by Joe Cerrell, political consultant to Philip Morris, that Tobacco Industry had decided in June 1980 to run a campaign against Proposition 10	T	82
Articles of Incorporation of Californians Against Regulatory Excess ("Excess")	U	83-84
Pertinent page of Excess Campaign finance disclosure statement showing excess formed as a Political Committee on July 8, 1980	V	85

Document	Tab	Page(s)
Excess form letter dated August 15, 1980 stating "cost prohibits the No on 10 Campaign from using media."	W	86
LA Times interview with Excess Campaign managers Robert Nelson and Eileen Padberg	X	87
Peninsula Times Tribune's October 1, 1980 quote of No on 10 Press Secretary stating that the Tobacco Industry's additional contributions to No on 10 (in excess of $340,000 (reported contributed as of Sept. 30, 1980) would "be very limited".	Y	88
Robert DeVries Declaration	Z	89
LA Times Oct. 9, 1980 report of No on 10 advertising on 50 TV and 105 radio stations	A	90
Text of No on 10 radio ads	B	90A-90B
Copy of No on 10 fundraising mailer	C	91-100
Larry Levine Declaration re No on 10 fundraising mailer	D	101-102
Robert Nelson Declaration	E	103-107
Tobacco Reporter, March 1980 showing the 1980 market shares of the cigarette manufacturers	F	108-110
United States Tobacco Journal, April 15, 1980 showing the 1978 market shares of the cigarette manufacturers	G	111-112A

Document	Tab	Page(s)
Stanton A. Glantz Declaration	H	113-116
Yes on 10 Sept. 26, 1980 letter to all broadcast stations	I	117-118
Yes on 10's Oct. 3, 1980 letter to broadcast stations	J	119-121
Vigo Nielsen's Oct. 13, 1980 letter to CBS, Inc.	K	122-123
Vigo Nielsen's Oct. 3, 1980 letter to KSDO Radio	L	124
Vigo Nielsen's Oct. 3, 1980 letter to KHJ-TV	M	125-126
Excess' Oct. 2, 1980 letter to broadcast stations	MC	127-131
KDON Sept. 30, 1980 letter to Yes on 10	N	132
KGMS letter and attachment dated Oct. 3, 1980 to Yes on 10	O	133-134
KPOP/KPIP "letter" to Yes on 10	P	135
CBS, Inc.'s Oct. 15, 1980 letter to Yes on 10 counsel	Q	136-137
Opposition dated October 24, 1980 filed by Dobbs and Nielsen on behalf of No on 10	R	138-147
Results of Mervin Field's California Poll on Prop. 18 published in San Francisco Chronicle Oct. 25, 1980	S	148
Discussion of Roper Poll in Wall Street Journal Oct. 22, 1979	T	149
Declaration summarizing Fairbank/Conaway/Moulin Poll	U	150-151

Document	Tab	Page(s)
Eileen Padberg Declaration	V	152-154
Excess Notice and Updates to members of Excess Board of Directors	W	155-158
Barry Fadem Declaration re meetings of Excess Board	X	159
Declaration re statement of President of California Restaurant Association that he was unaware that he was a member of Excess Board of Directors	YZ	160
Declaration incorporating television transcript of statement by Excess Board member Karen Peters	A	161-162
Bylaws of Californians Against Regulatory Excess	B	163-176
Application for Review by Yes on 10 to full Commission	C	177-178
Campaign finance disclosure statement filed by Californians Against Regulatory Excess pursuant to California's Fair Political Practices Act for period ending Sept. 23, 1980 (excluding list of $3 donors)	D	179-208
Campaign finance disclosure filed by Excess for period from Sept. 24,1980 through Oct. 20, 1980	E	209-296
Analysis of Funding of Campaign to Defeat Proposition 5 With Exhibits 1-6 containing pertinent parts of campaign finance disclosure statements filed by tobacco companies and No on 5 campaign	F	297-355

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 81-370
29723

In re Request for Declaratory Ruling)
of Paul Loveday and Californians)
for Smoking and No Smoking Sections)

Order

Adopted: July 30, 1981 Released: August 7, 1981

By the Commission:

1. The Commission has before it an Application for Review, filed on November 28, 1980, by Paul Loveday et al, of the Broadcast Bureau's ruling of October 30, 1980. */

2. The Bureau's ruling (see Attachment A, page 7) stated that "[the complainants had not submitted] any conclusive evidence which establishes that the tobacco companies are exercising editorial control over CARE advertisements...." To the extent that "conclusive" may imply an unwarranted burden on complainants in cases such as these, we will modify the Bureau's ruling by striking "conclusive." The Bureau's decision, with which we agree, was based primarily on a finding that the licensees did not act unreasonably. The information before the Bureau did not show that there was any editorial control of the CARE advertisements by "the tobacco companies."

3. Except as modified above, we believe the Bureau's ruling was correct, and the Application for Review does not contain sufficient grounds to warrant a reversal of the ruling. Therefore, pursuant to Section 1.115(g) of the Commission's Rules and Regulations, the Application for Review IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

William J. Tricarico
Secretary

*/ A copy of that ruling is appended (Attachment A).

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

OCT 30 1980

IN REPLY REFER TO:
8330-H
C10-1275
C10-1264
C10-997
C10-768

Mr. Paul L. Loveday
Attorney at Law
Two Embarcadero Center, 24th Floor
San Francisco, California 94111

In re: Request for Declaratory Ruling
by "Californians for Smoking and No
Smoking Sections."

Dear Mr. Loveday:

This is in reference to the Request for Declaratory Ruling that you filed on October 17, 1980 on behalf of the "Californians for Smoking and No Smoking Sections" (the "Committee") concerning advertisements opposing Propostion 10 by "Californians Against Regulatory Excess" ("CARE"). The Committee states that Proposition 10 represents "a measure placed on the November 4, 1980 California election ballot by the signature initiative process" which would "create smoking and no smoking sections in indoor public places." The Committee supports the adoption of Proposition 10; CARE opposes its adoption.

BACKGROUND *

It is the Committee's contention that CARE is acting as the "agent and alter ego" of the tobacco industry 1/ since CARE derives substantially all or "virtually 100%" of its funds from the industry 2/ and has relinquished editorial control over its advertisements to the industry. Essentially, the Committee's contentions are based on the following: (1) CARE and "Californians for Common Sense," organized to oppose a similar ballot proposition in 1978, retained the same legal counsel and advertising firm and further involved similar campaign themes and strategies; (2) the four largest cigarette manufacturers are "acting in concert" by contributing funds to CARE according to their respective market shares in California, as was the case in 1978; (3) the tobacco industry took personal credit for defeating the 1978 ballot proposition; 3/ (4) the four cigarette manufacturers "deferred massive spending on advertisements against Proposition 10 [until] . . . the day after the cutoff date for disclosing campaign expenditures" allegedly to conceal their campaign involvement; 4/ (5) CARE has employed former

*/ Footnotes are at the end of this ruling.

spokespersons for the Tobacco Institute to advocate its cause; and finally (6) Proposition 10 represents a "national campaign" launched by the tobacco industry to oppose restrictive legislation aimed at smoking, as evident by the activities in Dade County, Florida, where a similar ballot proposition is being considered.5/ The Committee also points out that CARE misrepresented its Board of Directors to the Californian licensees by including Mr. James Collins, the President of the California Restaurant Association, as a member. The Committee adds "only an examination of the files and records of Excess [CARE] can disclose how many other misrepresentations there are in Excess' [CARE's] . . . letter to Station Managers."

The Committee concludes that given the significant financial support provided by the tobacco industry and its alleged control over the CARE campaign, the California broadcast licensees have not "adequately fulfill[ed] their obligations of reasonable diligence" and "have participated with the Tobacco Industry in acts of affirmative deception by running a sponsorship identification statement ("Tag-line") stating that such advertisements were 'Paid for by Californians Against Regulatory Excess' when in fact" they were paid for by the tobacco industry.6/ The Committee is requesting that the Commission: (1) declare that the sponsorship identification statement attached to CARE advertisements is "misleading" and in violation of Section 317(c) of the Communications Act and Section 73.1212 of the Commission's Rules and Regulations; and (2) direct all California broadcast station licensees to identify all CARE advertisements as "paid for by the Tobacco Industry" rather than "Californians Against Regulatory Excess."

In support of its request, the Committee cites Amendment of the Commission's "Sponsorship Identification" Rules (Sections 73.119, 73.289, 73.789 and 76.221), 52 FCC 2d 701 (1975); In re KOOL-TV, 26 FCC 2d 42 (1970); and United States v. WHAS, Inc., 385 F.2d 784 (6th Cir. 1967). The Committee distinguishes the instant case from VOTER, 46 RR 2d 350 (B/c. Bur. 1979) and National Welfare Rights Organization, 41 FCC 2d 187 (1973), since here the tobacco industry allegedly has exercised editorial control over CARE advertisements.

The Committee asserts that time is of the essence, in light of CARE's "media blitz" during the final days before the election which has swayed voters to oppose Proposition 10, according to recent polls. The Committee believes that if the CARE advertisements are "properly" identified as paid for by the tobacco industry, the "credibility" of such advertisements would be diminished in the eyes of the voters.7/

On October 27, 1980, by its attorney, CARE filed its response.8/ CARE represents that it is a bona fide nonprofit corporation and political committee, with 12 Board members,9/ organized for the purpose of "educat[ing] California voters about excessive government regulation, and specifically, to oppose a California state ballot measure, Proposition 10, on the November 4, 1980 general election ballot." CARE cites VOTER, supra, and contends that the California broadcast station licensees "have acted properly and within their discretion in concluding that [it] is the entity, and the only entity, they must identify as sponsor of [CARE's] political spot announcements." CARE asserts that it has "wholly and fairly disclosed its contributions under California's campaign reporting and disclosure laws" and although "the four tobacco companies are the major contributors," a fact which has been "widely publicized,"10/ CARE exercises "editorial control over its spot ads" and "it is not controlled by the tobacco companies."

CARE rejects the allegations contained in the Committee's request. CARE states that:

> (1) The campaign management of [CARE] is independent of any and all tobacco companies and any of its trade associations.
>
> (2) The use by [CARE] of some experts who have previously worked on anti-smoking campaigns, which employment was sometimes by design and sometimes by coincidence, is demonstrative of good management and not of conspiratoral intentions.
>
> (3) The allegations that [CARE's] campaign is similar to the 1980 Dade County Florida anti-smoking campaign is not at all substantiated and is false.
>
> (4) The allegations that [CARE's] campaign is similar to the California Proposition 5 campaign in 1978 is correct. Committee acknowledges that it is appealing to the residue of voter disapproval of Proposition 5.

CARE added that it has not retained any current employee of the tobacco companies or the Tobacco Institute, but for the voluntary work of two employees of the Institute, who assist in the "distribution of literature throughout California."

CARE included declaration of Richard S. Woodward, a partner of the advertising firm retained by CARE, in which he stated that his firm has contracted with CARE to prepare scripts and submit them to that organization's Board and legal counsel for clearance. Mr. Woodward also stated that Mr. Nelson, the organizer and campaign manager of CARE, was on site during most of the production of the CARE advertisements.

CARE states that the Committee is asking the Commission to determine whether or not a political committee is an independent, bona fide organization. CARE further states that broadcasters have the responsibility "to exercise reasonable diligence to determine the identity of who paid for sponsored material." CARE concludes by stating, "to shift that responsibility to the Commission would literally place the Commission in the 'thicket' of all political campaigns . . . ."

On October 26, 1980, counsel for the Committee contacted a staff attorney of this office. The Committee asserted that CARE's documents prove that the tobacco industry directs the campaign strategy and exercises editorial control over the CARE advertisements, which it believes is essentially demonstrated by the following:

> (1) On July 27, 1980 a CARE "Update" was sent to its committee from Mr. Bergland, Chairman of CARE, which discussed the filing of a lawsuit challenging statements concerning Proposition 10, prior to any Board meeting, indicative of the Board's lack of control over camapign stratedy;

(2) There were only four Board meetings held, only one of which was in person, the remainder were telephonic. Only one of the four meetings had a quorum. Thus, CARE's representations to California broadcast station licensees that the Board "meets regularly" is incorrect and moreover, CARE's actions are not in compliance with its bylaws.

(3) The Board meetings were conducted on 8/26/80, 10/6/80, 10/13/80, 10/20/80. The advertising firm of Woodward, McDowell & Larson was retained in September and CARE's advertisements were being aired on 9/30/80. The time sequence suggests that CARE's Board did not meet after the advertising firm was retained and before the advertisements were completed and carried by the stations. The Committee maintains that the CARE Board did not have an opportunity to preview the advertisements and, thus, did not exercise editorial control over their content.

On October 27, 1980, counsel for CARE responded to the Committee's reply, during a phone conversation with a staff attorney of this office. CARE stated that, due to an oversight, it neglected to mention the Board's first organizational meeting which was held on June 16, 1980. (In attendence were Mr. Bergland, Mr. Dohr and Mr. Benson). CARE also explained that a political committee which is comprised of individuals with diverse interests, occupations and responsibilities, unlike a private corporation or an on-going organization, often experiences difficulties in scheduling meetings and commanding appearances at such, which accounts for its irregular meetings. CARE, however, states that Mr. Bergland (Chairman and President of the Board), Mr. Dohr (Treasurer) and Mr. Nelson (Senior Campaign Manager and Organizer of CARE) meet regularly, supervise the campaign and exercise complete editorial control over CARE advertisements. CARE denies that the tobacco industry exercises any control whatsoever over the organization's activities or strategies.

DISCUSSION

The thrust of this request is that the sponsorship identification statements attached to CARE advertisements are inadequate and improper under Section 315 of the Communications Act and Section 73.1212 of the Commission's Rules and Regulations. To summarize, the Committee contends that the tobacco industry - specifically, the four major cigarette manufacturers - are the actual sponsors of CARE advertisements and the true strategists behind CARE's campaign drive and should be identified as such; CARE asserts that it exercises control over all of the advertisements and the campaign, not the cigarette manufacturers, and that the sponsorship identification statements are correct. Both organizations have contacted the various broadcast station licensees throughout California to make their position known. The issue presented is whether the California broadcast station licensees have failed to exercise reasonable diligence to identify the sponsor of the CARE advertisements.

Mr. Paul L. Loveday

Section 317 of the Communications Act provides, in pertinent part, that:

> (a)(1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is broadcast, be announced as paid for or furnished, as the case may be, by such person . . .
>
> * * *
>
> (c) The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section (emphasis added).

The corresponding rule is contained in Section 73.1212 of the Commission's Rules and Regulations and provides, in pertinent part, that:

> (b) The licensee of each broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any matter for broadcast, information to enable such licensee to make the announcement required by this section.
>
> * * *
>
> (e) The announcement required by this section shall, in addition to stating the fact that the broadcast matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or valuable consideration is received, or by whom the material or services referred to in paragraph (d) of this section are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence, as specified in paragraph (b) of this section, could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent (emphasis added).

The basic premise of the sponsorship identification requirements is that the public is entitled to know by whom they are being persuaded. VOTER, supra at 352; National Welfare Rights Organization, supra at 195; Applicability of Sponsorship Identification Rules, 40 FCC 141, 141 (1963).

Section 317 and Section 73.1212 impose a duty upon licensees to exercise reasonable diligence to ascertain the identity of the sponsor of broadcast material. The obligation to exercise reasonable diligence to ferret out the actual sponsor of broadcast material, of course, does not cast licensees in the role of "insurers" as to the complete accuracy of sponsorship identification statements; they have an affirmative obligation to ascertain and identify the sponsor, no more - no less. National Welfare Rights Organization, supra at 195. The Commission's responsibilities in these matters is to not to substitute its judgment for that of the licensees' or to pass on the bona fide nature of an organization; rather the Commission, as a government licensing agency, reviews its licensees' decisions to determine if it can be said that they exercised reasonable diligence.

We believe that the Bureau ruling in VOTER, supra, is dispositive of this request. The case of VOTER concerned a ballot proposition (involving the establishment of a county public power system), in which advertisements opposing the ballot were aired as being sponsored by a political committee ("Westchester Citizens"). The Committee was funded in substantial part or completely by the Consolidated Edison Company. The complainant argued that Con Edison should have been substituted or added to the sponsorship identification statement. The Committee admitted that it received substantial financial assistance from Con Edison, but maintained that it exercised editorial control over all of its advertisements.

After noting that "longstanding Commission policy has been that an entity paying for advertising time and editorial control over the message must be identified as the sponsor of the statement," the Bureau stated that:

> [W]e cannot conclude that any licensee, in evaluating the facts before it regarding the advertisement, failed to exercise reasonable diligence by accepting the representations of Westchester Citizens. The substantial proportion of Con Edison's role in Westchester Citizens funding might suggest a basis for further inquiry to some licensees. On the other hand the Westchester Citizens by-laws, represented assertion of editorial control over these advertisement, and the weight of precedent suggest that those licensees who accepted Westchester Citizens' advertisements as offered did so in good faith and without closing their eyes to any attempted misrepresentation. Indeed, some licensees may conclude, either on the facts thus far provided by the Westchester Citizens, or additional information not now before us, that, in its view, "Con Edison" alone is the appropriate identification. In such a case, we would have no basis for finding that the licensee has acted unreasonably (emphasis added). Id. at 352; see also, National Welfare Rights Organization, supra (announcements paid for by a private corporation, but controlled and directed by the American Academy of Pediatrics, were properly identified as "presented as a public service announcement by the American Academy of Pediatrics).

In the same fashion, on the basis of all the information before us, we cannot determine that all the California broadcast station licensees acted unreasonably by failing to exercise reasonable diligence in accepting the representations of CARE and ultimately airing the CARE advertisements as offered. On the other hand, if some licensees substituted the sponsorship identifcation statements with "Paid for by the Four Major Tobacco Companies," we would have no basis for concluding that they acted unreasonably.

The Committee submitted a rather voluminous record (consisting of studies, polls, newspaper articles and declarations) in an attempt to demonstrate that the tobacco companies are controlling CARE. While it has been shown that substantially all or "virtually 100%" of CARE's funds have come from the four major tobacco companies, a fact that CARE readily admits in its response, there has not been any conclusive evidence which establishes that the tobacco companies are exercising editorial control over CARE advertisements, or for that matter CARE's entire campaign efforts or any other drive aimed at defeating similar legislation like that pending in California. More importantly, there has been no evidence that the California broadcast station licensees have dismissed this matter without exercising reasonable diligence to ascertain the true sponsor in compliance with their obligations under Section 317 and Section 73.1212.

CONCLUSION

Based on all of the foregoing, we cannot conclude that any broadcast station licensee has violated the sponsorship identification provisions of the Communications Act or the Commission's Rules and Regulations. To hold otherwise would require this agency to investigate the nature of political committees organized to support or oppose an election matter (e.g., whether or not corporate formalities were adhered to), to second-guess broadcast station licensees' judgments, to rule on the basis of hindsight, rather than reviewing licensees' decisions to determine if they acted reasonably and in good faith.

In closing, "we continue urge caution and the exercise of reasonable dilicence on the part of our licensees to take appropriate steps to ascertain the fullest factual information as to the true identity of political and controversial issue sponsors." VOTER, supra at 352.

Due to the imminence of the election, pertinent parts of this ruling were relayed by phone conversation to the respective attorneys on October 30, 1980.

Staff action is taken here under delegated authority. Application for Review by the full Commission may be requested within 30 days of the release date of this letter by writing the Secretary, Federal Communications Commission, Washington,

D. C. 20554, stating the factors warranting consideration and, if mailed, should be sent by certified mail. Copies must be sent to the parties to the complaint. See Code of Federal Regulations, Volume 47, Section 1.115.

Sincerely,

Stephen F. Sewell

Stephen F. Sewell, Acting Chief
Complaints and Compliance Division
Broadcast Bureau

cc: Counsel for care

FOOTNOTES

1/ The Committee apparently refers to the four largest cigarette manufacturers in the country as comprising an "entity," known as the "tobacco industry." Such manufacturers include Lorillard, R. J. Reynolds Tobacco, Brown and Williamson Tobacco Co. and Phillip Morris.

2/ According to the Committee, approximately 99.6% of CARE's financing comes from the tobacco industry (the four major cigarette manufacturers and to a small extent the tobacco distributors; whereas approximately 99.4% of the funds came directly from the four manufacturers). The Committee's figures are derived from the financing disclosure statements that CARE filed in California pursuant to California election laws.

3/ In this connection, the Committee enclosed a newspaper article, entitled "The tobacco industry: How it snuffed out Proposition 5." The article quoted Richard Woodward, of Woodward, McDowell and Larson (the advertising firm that was retained by "Californians for Common Sense" in 1978 and CARE in 1980) and Ed Grefe, vice president for public affairs of Phillip Morris, as describing their campaign strategy to defeat the 1978 ballot proposition in California. The Committee asserts that this indicates that the tobacco industry exercised control over the campaign and editorial control over the advertisements.

4/ A comparison of the financing disclosure statements coverting the periods of "1/8/80 through 9/23/80" (executed 9/29/80) and "9/24/80 through 10/20/80" (executed of 10/23/80) shows that the major cigarette manufacturers did, in fact, channel more funds into CARE during the latter period, in the form of loans or otherwise. However, this fact alone does not demonstrate that the cigarette manufactures attempted to conceal their "support" of CARE.

5/ With respect to the "national campaign," the Committee enclosed a copy of an article that appeared in the United States Tobacco Journal, shortly after the ballot proposition was defeated in 1978, which warned that the "the entire tobacco industry . . . has an important stake in what happens in the nation's most populous state - a state which incidentially accounts for more than 9% of the nation's cigarette consumption - impacts nationally [as with "Proposition 3"]." In addition, the Committee points out that the tobacco industry has also significantly contributed to the "Floridians Against Increased Regulation" ("FAIR"). Moreover, the Committee represents that the same agents have been employed in both the prior and the current campaigns in Florida and California. In fact, the advertising firm of Woodward, McDowell and Larson was retained in both prior campaigns, but is now only working for CARE on the California proposition. Lance Tarrance was the only "agent" retained in all four campaign drives by the respective political committees. Finally, the Committee contends that the tobacco industry, in an effort to alleviate the effect of adverse legislation, has been instrumental in drafting "watered down legislation that appears to protect nonsmokers but in reality does not." As an example of such "diluted" legislation, the Committee attached a copy of the 1978 Greene Bill (SB 2026). The financing disclosure statement filed by "Californians for Common Sense" in 1978 reveals a payment of $20,000 to state Senator Bill Greene, but it does not specify what services were rendered. It should be noted that none of these representations conclusively substantiate tobacco industry involement.

6/ The Committee attached correspondence that it sent to all the California broadcast station licensees, advising them of their obligation to exercise "reasonable diligence" to ascertain the true identity of the entity on whose behalf advertisements are purchased. The Committee proceeded to explain that virtually all the funds received by CARE are from the out-of-state tobacco industry, and thus the tag line "Californians Against Regulatory Excess" is deceptive and should be substituted with the "tobacco industry." In their response, CARE attached correspondence that it sent to the licensees which denied allegations that it was operating as a "front" for any person, company or industry, admitted that it received "tobacco" funds, but emphasized that it maintained control over CARE advertisements and campaign strategies. The Committee forwarded letters received by several stations which essentailly denied their request for substitution of tag-lines on CARE advertisements. It should be noted that a sponsorship identification statement referring to the "tobacco industry" may be deceptive and misleading, in that there is no particular entity known as such, and further that CARE is, in fact, incorporated in California and has Californians serving on its Board.

7/ The Committee cites two studies, the Roper Poll of 1978 commissioned by the Tobacco Institute and the Fairbanks/Canapary/Maullin Poll commissioned by CARE, which indicate that the tobacco industry's "credibility" is low. The Committee further claims that the tobacco industry is cognizant of their low esteem, which explains "their" desire to operate through a "front organization" like CARE.

8/ A copy of that response was sent to a staff attorney of this office of October 25, 1980, at her request.

9/ As mentioned before, Mr. Collins has denied that he was a member of CARE's Board of Directors. By declaration of Eileen Padberg, of Robert Nelson and Associates (Robert Nelson organized CARE), CARE represents that it was its understanding that Mr. Collins was, in fact, serving on the Board and that all notices of meetings and other informative data was forwarded to him, accordingly. Eileen Padberg also stated that Mr. Kiker participated in one telephonic Board meeting, on Mr. Collin's behalf and at his request.

10/ Both CARE and the Committee have furnished the Commission with newspapers articles which report the influx of the tobacco industry's financial support.

YES ON 10

Californians for SMOKING & NO SMOKING Sections

SMOKING AND NO SMOKING SECTIONS ACT OF 1980

SECTION 1: Chapter 10.7 is added to the Health and Safety Code to read:
"Chapter 10.7 Smoking and No Smoking Sections

§25930 **Name**
This Chapter shall be known and may be cited as the "Smoking and No Smoking Sections Act of 1980."

§25931 **Findings**
The People of the State of California find that:
(a) Breathing second-hand smoke for extended periods may cause disease in healthy nonsmokers;
(b) Breathing second-hand smoke can aggravate the condition of more than 2 1/2 million Californians with heart or lung disease;
(c) Second-hand smoke, like all tobacco smoke, contains more than 4,600 chemicals, many of which are dangerous to human health;
(d) Air pollution above Federal standards can occur in enclosed places because of second-hand smoke, even with normal ventilation;
(e) Second-hand smoke can cause burning of the eyes and nasal passages, headaches, nausea and discomfort in nonsmokers, and can aggravate the condition of persons with allergies to other substances.

COMMENT: The findings stated in Section 25931 are identical to conclusions reached in a November 1979 compilation of the world scientific research entitled "Tobacco Smoke and the Nonsmoker" by Luther Terry MD (US Surgeon General 1961-65); Jesse Steinfeld MD (US Surgeon General 1969-73); Raymond Weisberg MD (President, American Cancer Society, Calif. Div.); Peter Pool MD (President-Elect, American Heart Assn., Calif. Affiliate); Robert Fallat MD and Charles Mittman MD (Board Members, American Lung Assn. of Calif.); and Stanton Glantz PhD (Asst. Professor of Medicine, UCSF)

§25932 **Purpose and intent**
(a) The purpose of this Chapter is to protect the health, comfort and environment of nonsmokers in certain enclosed places.
(b) The intent of this Chapter is to strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air, and to recognize that, where these needs conflict, the need to breathe smoke-free air should have priority.

§25933 **Smoking and No Smoking Sections**
(a) Subject to the criteria set forth in Section 25934, smoking and no smoking sections or areas shall be established and designated in every enclosed public place, enclosed place of employment, enclosed educational facility, enclosed health facility and enclosed clinic. No person shall smoke in a no smoking section or area.
(b) This Chapter shall not limit smoking in outdoor areas, in private residences, or in any place not established pursuant to this Chapter as a no smoking section or area, nor prohibit the sale of tobacco products.

§25934 **Criteria**
Smoking and no smoking sections and areas established and designated pursuant to this Chapter shall be consistent with the purpose and intent of this Chapter and shall conform with the following criteria:
(a) Smoking and no smoking sections need not be separated by walls, partitions or other barriers. No construction or erection of walls, partitions or other barriers shall be required to comply with this Chapter.
(b) Facilities and areas in which it would be inappropriate to limit smoking (including, but not limited to, any enclosed room normally occupied exclusively by persons who smoke; hotel and motel rooms designated for rental to overnight guests; and areas used for private social functions while being so used) may be designated in their entirety as smoking areas.
(c) Facilities and areas in which it would be impractical to create smoking and no smoking sections (including, but not limited to, elevators, buses and, except for tobacco stores, those portions of retail stores open to the public) shall be designated in their entirety as no smoking areas.
(d) Any employee working in an enclosed place of employment who desires his or her work station to be in a no smoking section or area shall be so accommodated.
(e) Smoking shall not be limited in private hospital rooms. Smoking may be permitted in semi-private hospital rooms and wards only if all patients therein have requested to be placed in a room in which smoking is permitted.
(f) Notwithstanding any other provision of this Chapter, any facility or area may be designated in its entirety as a no smoking area by the owner or manager thereof.

§25935 **Signs**
(a) Except in facilities owned and used or leased and used by governmental entities subject to this Chapter, clearly legible signs shall be conspicuously posted in every no smoking section and no smoking area established pursuant to this Chapter stating that smoking therein is unlawful. Such signs shall be sufficiently large and numerous as to give reasonable notice to all persons in a no smoking section or no smoking area that smoking is unlawful there. Such posting shall be the obligation of the lessee of leased premises and the obligation of the owner of premises which are not leased.

NORTHERN HEADQUARTERS
2054 University Ave.
Suite 600
Berkeley, CA 94704
(415) 841-3032

SOUTHERN HEADQUARTERS
11969 Ventura Blvd.
Suite 114
Studio City, CA 91604
(213) 506-5677

Paul Loveday
Chairperson

Peter Hanauer
Treasurer

Vice-chairs:

San Francisco
Raymond L. Weisberg, M.D.
President, American Cancer Society California Division

Los Angeles
Daniel H. Lowenstein
Professor of Law, UCLA

San Diego
Peter E. Pool, M.D.
President, American Heart Association California Affiliate

HONORARY CHAIRPERSON
Linus Pauling
Nobel Laureate

ADVISORY COMMITTEE
Jesse L. Steinfeld, M.D.
U.S. Surgeon General, 1969-1973
Luther Terry, M.D.
U.S. Surgeon General, 1961-1965
Glen T. Seaborg, Ph.D.
Nobel Laureate
Senator Diane E. Watson
Vice-chair, Senate Health Committee
Theodore A. Snyder, Jr.
President, Sierra Club
Mayor Janet Gray Hayes
San Jose
Stanton A. Glantz, Ph.D.
Asst. Professor of Medicine, UCSF

(Titles and organizations used for identification purposes only)

ENDORSING ORGANIZATIONS
American Assn. of Retired Persons & American Assn. of Retired Teachers, California State J.L.C.
American Cancer Society, California Division
American Heart Association, California Affiliate
American Lung Association of California
California Dental Association
California Medical Association
California Nurses Association
Sierra Club
Cystic Fibrosis Foundation, Northern California Chapter
Los Angeles County Democratic Central Committee
Orange County Dental Society
March of Dimes, Southbay Chapter
Santa Clara Dental Society
Santa Clara Pharmaceutical Assn.
Santa Clara County Board of Supervisors
Women For:

LABOR CONSULTANT
David Jenkins

CAMPAIGN SUPPORT COMMITTEE
Ansel Adams
Assemblyman Art Agnos
Wilbert S. Aronow, M.D.
Isaac Asimov
Ed Asner
(over, please)

J.A. 12

Peter Barnes
Assemblyman Tom Bates
Peter Behr
Councilman Ernani Bernardi
Lester Breslow, M.D., M.P.H.
Lloyd Bridges
Anne Brower
David Brower
Allan F. Brown
Helene Brown
Assemblyman Victor Calvo
Senator William Campbell
Stanley M. Caesan
Laurence Dawson
Supervisor Rod Diridon
Supervisor Edmund D. Edelman
Assemblywoman Leona Egeland
Keith Eickman
Robert Fellat, M.D.
Mayor Dianne Feinstein
John Forsythe
Patrick J. Frawley, Jr.
Hon. Arlen Gregorio
Assemblyman Richard Hayden
Clarence Heller
Charlton Heston
G. Richard Hicks
Rafer Johnson
Allan K. Jonas
James J. Kail
Ted Knight
Supervisor Quentin Kopp
Jack Kruschen
Irwin Leff
Doris Leonard
Richard Leonard
Art Linkletter
John Mathews
J. Michael McCloskey
Chuck Mack
E. Richard Mertz, Ph.D.
Herb Mills
Charles Mittman, M.D.
Assemblyman Bruce Nestande
Ronn Owens
Senator Nicholas Petris
Keith Petty
Senator Alan Robbins
Bob Rutemoeller
John H. Sewak, M.D.
Senator Alan Sieroty
Supervisor Carol Ruth Silver
Mervyn F. Silverman, M.D., M.P.H.
Jean B. Siri
Gary H. Spivey, M.D., M.P.H.
Georgia Tatum
Abigail Van Buren
Edgar Wayburn, M.D.
Peggy Wayburn
Cornell Wilde
Senator Bob Wilson
Michael York
(partial list)

(b) In any facility owned and used or leased and used by a governmental entity subject to this Chapter, clearly legible signs shall be conspicuously posted indoors at every entrance to the facility. Such signs shall state that smoking is unlawful throughout such facility except in designated smoking areas and in single-occupant offices. No such governmental entity shall pay more than fifty cents (plus a reasonable adjustment for inflation since November 15, 1979) for any sign referred to in this Subsection. Such governmental entities shall use existing resources to install such signs and shall not request or obtain increased budgetary allocations to install such signs.

(c) Notwithstanding any other provision of this Section, the Standards adopted pursuant to Section 25939, shall set forth areas, facilities and entrances where the posting of no smoking signs is unnecessary to fulfill the purpose of this Chapter including, but not limited to, entrances to elementary school classrooms. No signs need be posted in such areas and facilities or at such entrances.

(d) Notwithstanding any other provision of this Section, in any no smoking section or area in which signs indicating that smoking is not permitted are already conspicuously posted on the date this measure is approved by the electorate, signs otherwise required by this Section need not be posted until such pre-existing signs are worn out or removed.

§25936 **Violations**

(a) Violation of any provision of this Chapter is an infraction. Any person who violates any provision of this Chapter shall be subject to a fine of $15 per violation.

(b) Enforcement of this Chapter shall be by citation. No person may be taken into custody or be subject to search by peace officers solely because of the violation or suspected violation of this Chapter.

(c) Each day on which a violation of the sign-posting requirements of this Chapter occurs shall be a distinct and separate violation.

(d) Enforcement of the sign-posting requirements of this Chapter shall be by the State Department of Health Services, local health departments and local law enforcement departments. Enforcement of all other provisions of this Chapter shall be by local law enforcement departments.

§25937 **No Discrimination**

No person shall discharge, refuse to hire, or in any manner discriminate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this Chapter.

§25938 **No Preemption**

It is not intended that this Chapter preempt the field of smoking legislation. The State Legislature, local governing bodies and state and local administrative agencies may enact further legislation and regulations to protect the health, comfort and environment of nonsmokers. This Chapter does not permit smoking where otherwise restricted by law.

§25939 **Standards**

(a) Within 90 days after approval of this measure by the electorate, the State Department of Health Services shall adopt specific Standards in accordance with Chapter 4.5 (commencing with Section 11371, Part 1, Division 3, Title 2 of the Government Code) to implement the provisions of this Chapter. The Standards shall, among other things, specify those facilities and areas which may be designated in their entirety as smoking areas pursuant to Section 25934(b) and which shall be designated in their entirety as no smoking areas pursuant to Section 25934(c). The Standards may be amended in accordance with Chapter 4.5 of the Government Code.

(b) The State Department of Health Services shall have exclusive administrative jurisdiction under this Chapter with respect to the issuance of Standards for the establishment and designation of smoking and no smoking sections and areas in places of employment.

(c) The State Department of Health Services shall use existing resources and shall not request or obtain increased budgetary allocations to carry out its duties under this Chapter. No special bureaucracy shall be created within the State Department of Health Services or within any other governmental agency for the administration of this Chapter or the Standards.

§25939.1 **Definitions**

(a) "Place of Employment" means any area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, meeting rooms, and employee cafeterias. A private residence is not a "place of employment."

(b) "Public Place" means any area to which the public is invited or in which the public is permitted, including, but not limited to, restaurants, theatres, waiting rooms, reception areas and instrumentalities of public transportation. A private residence is not a "public place."

(c) "Second-hand Smoke" means both smoke from the burning ends of cigarettes, cigars and pipes and smoke exhaled by persons who smoke.

(d) "Smoking" or to "Smoke" means and includes the carrying or holding of a lighted cigarette, cigar, pipe or any other lighted smoking equipment used for the practice commonly known as smoking, or the intentional inhalation or exhalation of smoke from any such lighted smoking equipment.

(e) "State Department of Health Services" means such Department or any successor thereof.

(f) Any facility or area which qualifies as both a "Place of Employment" and as a "Public Place" shall be treated for purposes of this Chapter solely as a "Public Place."

(g) The Standards adopted pursuant to Section 25939 shall contain such other definitions as the State Department of Health Services shall deem appropriate.

§25939.2 **Amendment**

With the exception of this Section, Section 25937 and the purpose and intent expressed in Sections 25932 and 25938, this Chapter may be amended by the State Legislature; provided, however, that any amendment to this Chapter shall be consistent with such purpose and intent.

§25939.3 **Severability**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, any such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable."

SECTION 2: **Effective Date**

Chapter 10.7 of the Health and Safety Code shall become effective 120 days after approval by the electorate; provided, however, that the duty of the State Department of Health Services to begin the process of promulgating Standards thereunder shall become effective immediately.

Exhibit E

FAIR POLITICAL PRACTICES COMMISSION

Contact: JOHN KEPLINGER

916/322-5662

FOR IMMEDIATE RELEASE

Saturday, November 4

$5.6 MILLION CONTRIBUTED TO NO ON 5 CAMPAIGN

Opponents of Proposition 5, the smoking regulation initiative on Tuesday's ballot, have contributed a record $5.6 million to the campaign to persuade Californians to defeat the measure.

Final reports showed 6,413,031 spent by Tobacco industry

More than $700,000 was contributed to the anti-Proposition 5 effort in the past week alone by opponents who already have spent more money than Governor Brown and Attorney General Evelle Younger combined.

In an analysis of the most recent campaign disclosure reports, the Fair Political Practices Commission said today that a new campaign contribution and spending record apparently has been established by the Proposition 5 foes.

Final reports showed 99.7% contributed by Tobacco Industry

About 97 per cent of the money has been contributed by the nation's major tobacco companies, and they are outspending supporters of the initiative by a 10 to 1 ratio.

In their last campaign reports, filed on October 23, opponents of Proposition 5 reported receiving $4,947,462 in contributions and spending $4,918,370. Since then, they have filed telegrams as required by law reporting an additional $701,000 in late contributions, for a total of $5,648,462.

Supporters of Proposition 5 reported receiving $578,761 in contributions and spending $512,650. They received $17,030 in additional late contributions during the past week.

The previous record for spending by one side in any California campaign was the $4,033,590 spent by opponents of Proposition 15, the nuclear safeguards initiative on the 1976 ballot. Combined spending by both sides in the Proposition 15 contest amounted to $5.2 million. When final post-election reports are examined, they are likely to show that spending by the anti-Proposition 5 forces will exceed the $5.2 million figure, the FPPC said.

The FPPC report also showed that from July 1 to October 23, the Brown campaign raised $2,974,238 and spent $2,296,606, and had $731,960 in cash on hand left over. The Younger campaign raised $1,800,753, spent $1,751,346 and had $55,830 left over.

In late contributions received since October 23, Brown got $146,510 and Younger received $99,903.

In the lieutenant governor's race, Republican Mike Curb was well out in front of incumbent Democrat Mervyn Dymally. Curb had received $1,041,765 and spent $1,016,897, while Dymally had raised $295,607 and spent $219,344.

In another hotly contested campaign, Proposition 6, the school employees homosexuality initiative, supporters had raised $937,121 and spent $956,459, while opponents had raised $901,918 and spent $783,738.

Figures for the major candidate and ballot initiative campaigns are attached.

DECLARATION OF
RICHARD S. WOODWARD

I, RICHARD S. WOODWARD, declare:

I am a partner of Woodward, McDowell & Larson, a San Francisco based campaign management, public relations and consulting firm.

I have read the letter from Paul L. Loveday, Esq. dated October 16, 1980, to the Federal Communications Commission and have been asked to comment about statements made therein about which I am knowledgeable.

In 1977, my firm was retained by the Tobacco Institute, and later that year my firm was retained by Californians for Common Sense to manage a campaign to oppose Proposition 5 on the 1978 ballot. In 1979, this firm was retained as a media consultant, not the campaign manager, to create and produce some of the broadcast advertising in a campaign to oppose an anti-smoking ordinance in Dade County, Florida. My firm has not participated in any other campaigns involving smoking and has not received any other fees from any tobacco companies or the Tobacco Institute after our activity relating to Proposition 5 (1978) and the 1979 Dade County campaign. This firm is not involved at all in the 1980 anti-smoking initiative in Dade County, Florida.

This firm was the campaign manager for the Yes on Proposition 10 (Rent Control) and the No on Proposition 11 (Oil) campaigns on the June 3, 1980 statewide ballot, which campaign work concluded in August after Californians Against Regulatory Excess was formed and operational. This fall, this firm was retained for two United States senate races in Illinois and Alabama, and we undertook a major corporate account. We had no plans at that time to participate in the opposition campaign to Proposition 10.

In September we agreed to assist the No on 10 Committee and signed a written contract that requires us to draft scripts, submit them to the Board of Californians Against Regulatory Excess and their legal counsel for clearance, and upon receiving approved copy, to produce and place the advertising. Robert Nelson was on-site most of the time during casting, shooting and post production of this advertising.

On page 12(a) of Mr. Lovedays letter, he states that the spots produced by this firm for Californians Against Regulatory Excess are similar to those produced this year in Dade County, Florida, to oppose an anti-smoking measure. I have no personal knowledge about any spots produced in Dade County for the 1980 campaign. I do not even know who is running either side of that campaign. What Mr. Loveday submitted in his Exhibits as the Dade County spots were spots produced by this firm in 1978 for Californians For Common Sense. The same four partners who managed the Californians for Common Sense campaign two years ago are still the firm's partners and the similarity between the 1978 California spots and the present California ones are not coincidental or without design. The spots for Californians Against Regulatory Excess were planned to remind the voters that a similar measure had already been defeated. (Exhibit L)

This firm contracted with a placement service to purchase media time. At no time was anyone ever told that no tobacco companies had contributed to the campaign. There has been considerable publicity throughout California that tobacco companies now are making substantial contributions to Californians Against Regulatory Excess. The participation of this firm in the No on Proposition 10 campaign is recent and has only involved the creation, production and placement of certain advertising. Consequently, I cannot comment on other facts stated in Mr. Loveday's letter; however, I can state that as his allegations relate to this firm there is no

conspiracy as alleged. I have no reason to believe that the Californians Against Regulatory Excess Committee is not a bona fide citizens' committee.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 24, 1980.

Richard S. Woodward

RICHARD S. WOODWARD

JA 18

PAUL L. LOVEDAY
Attorney At Law

One Embarcadero Center, 28th Floor
San Francisco, CA 94111 (415) 955-0203

October 16, 1980

Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

Attn: Mr. William Triqarico, Secretary

Re: Request by Paul Loveday and "Californians for Smoking and No Smoking Sections" for Declaratory Ruling Regarding Deceptive and Unlawful Sponsorship Identification Statements With Respect to Paid Radio and Television Advertisements by The Tobacco Industry Against California's Proposition 10

EXPEDITED RELIEF REQUESTED
November 4, 1980 Election

Gentlemen:

This letter is a request for a Declaratory Ruling regarding the unlawful participation of California broadcast stations with the Tobacco Industry in acts of affirmative deception in violation of Section 317(c) of the Federal Communications Act (the "Act") with respect to Proposition 10, a measure placed on the November 4, 1980 California election ballot by the signature initiative process. Due to the imminence of the election, and in light of the extraordinary facts set forth below, immediate expedited action is requested. We request that a schedule be established by the Federal Communications Commission ("FCC") so that a ruling can be issued within seven days of the date of this letter.

I. PARTIES

Paul Loveday is a listener of California broadcast stations and the Chairman of Californians for Smoking and No Smoking Sections ("Yes on 10"). Yes on 10 is a coalition of the California Divisions of the American Cancer Society, the American Heart Association and American Lung Association, the California Medical and Nurses Associations, and other health organizations. Yes on 10 is funded by those organizations and by many thousands of individual contributors.

II. PROPOSITION 10

Proposition 10 (a copy of which is attached hereto as Exhibit A) would create smoking and no smoking sections in indoor public places such as restaurants, airports and hotel lobbies and indoor places of employment. Proposition 10 states its intent is "to strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air."

Proposition 10 has an extraordinary broad and bi-partisan base of support. It has been endorsed by the Speaker of the California Assembly, Leo McCarthy, by the President Pro Tempore of the California Senate, James Mills, by the State Senate Majority and Minority Leaders, and by the Chairpersons of the Health Committees of both the State Assembly and Senate, by numerous other California legislators, mayors, Congresspersons, labor and business leaders. Proposition 10 has the support of every significant statewide health organization in California.

On September 11, 1980, two weeks before the Tobacco Industry commenced a massive television, radio and billboard advertising campaign against Proposition 10, Mervin Field's highly respected California Poll showed 59% of California smokers and 70% of the State's nonsmokers favored the measure. (See Exhibit A-2)

III. RELIEF REQUESTED

The Tobacco Industry has caused its agent and alter ego, deceptively named Californians Against Regulatory Excess, (hereinafter sometimes called "Excess"), to purchase massive amounts of air time from California radio and television stations for advertisements urging a "no" vote on Proposition 10. Virtually one hundred percent of such air time has been paid for by moneys transferred to Excess from the four largest cigarette manufacturers, each contributing according to its share of the tobacco sales market. All four cigarette manufacturers are located outside of California. Because these four largest cigarette manufacturers (representing almost 90% of total cigarette sales) are acting in concert and contributing according to their market shares, the campaign to defeat Proposition 10 is being financed by the Tobacco Industry operating in unison through its agent and alter ego Excess.

The Tobacco Industry exercises editorial control over the No on 10 advertising.

Yes on 10, by two letters from its counsel dated September 26, 1980 and October 3, 1980 (attached hereto as Exhibits B-1 and B-2), has notified all California broadcast stations of their duties under the FCC Sponsorship Identification Rules both (i) to use reasonable diligence to discover the persons or entities who are actually paying for and controlling such advertisements, and (ii) to announce before or immediately after the broadcast of each such advertisement that such advertisement was "paid for by the Tobacco Industry".

The stations have refused to do so. The response by Mr. Dan Leonard, Vice President of Forest Broadcasting Company, Inc. (attached hereto as Exhibit B-3) is fairly typical:

> "In response to your request that we investigate the funds for Californians Against Regulatory Excess, we have made several inquiries. Mr. Bob Hoffman of our national rep firm, Catz radio, Los Angeles office, spoke with the agency for No on 10, Western International Media, and he has received assurances that no tobacco industry money was involved."

Because it can be easily ascertained that only Tobacco Industry money is used to pay for No on 10 broadcast advertising, and that the Tobacco Industry is exercising editorial control over the advertising, Forest Broadcasting Company, Inc. and all other broadcastors running such advertising are violating their obligations under the FCC Sponsorship Identification Rules.

Instead of adequately fulfilling their obligations of reasonable diligence, the stations have participated with the Tobacco Industry in acts of affirmative deception by running a sponsorship identification statement ("Tag-line") stating that such advertisements were "Paid for by Californians Against Regulatory Excess" when in fact (i) the money to pay for such advertisements has come from outside of California, and (ii) Excess is merely the alter ego of the Tobacco Industry operating on an industry basis to influence the California electorate.

Yes on 10 hereby requests the FCC to declare (i) such a misleading Tag-line is a violation of Section 317(c) of the Act and 47 CFR 73.1212, and (ii) that the Federal Communications law requires each advertisement placed by Excess to contain the Tag-line "Paid for by the Tobacco Industry".

IV. THE FACTS DEMONSTRATE THAT EXCESS IS THE AGENT AND ALTER EGO OF THE TOBACCO INDUSTRY

The following facts demonstrate (i) that Californians Against Regulatory Excess is a mere conduit for the funds of the out-of-state Tobacco Industry for purchasing air time against Proposition 10, and (ii) that the Tobacco Industry exercises editorial control over the advertising:

A. THE 1978 PROPOSITION 5 CAMPAIGN

During the 1978 campaign on a similar California ballot measure (Proposition 5), fully 99.7% of the almost $6½ million spent against Proposition 5 came from one source: The Tobacco Industry. (See Exhibits C-1, C-2 and C-3.)

Cognizant that widespread public knowledge of the fact that the No on 5 Campaign was financed and controlled by the Tobacco Industry would severely damage the credibility of its campaign, the Tobacco Industry took the following steps to disguise its involvement and to give the erroneous impression that the No on 5 Campaign was a groundswell citizens movement by a coalition of Californians:

(a) The Tobacco Institute, the trade association of the Tobacco Industry, told the New York Times that it had "no direct knowledge or part in the anti-initiative effort." (See Exhibit D-1) However, the campaign financing disclosure statements required by the California Fair Political Practices Act later demonstrated that, at the time of the denial, the Tobacco Institute had already spent $61,000 to set up the campaign against Proposition 5. (See Exhibit D-1a)

(b) The Tobacco Institute hired Woodward, McDowell and Larson,** a professional campaign management firm, to manage the No on 5 Campaign and to create "Californians for Common Sense" as the front organization and agent for the out-of-state Tobacco Industry. (See Exhibit D-1b)

---

* Exactly $6,413,041 was spent against Proposition 5.

** Woodward, McDowell & Larson was known only as Woodward & McDowell in 1978. The two partners promoted Larson to partnership upon the conclusion of the No on 5 Campaign. In this Request the firm is consistently referred to as Woodward, McDowell & Larson.

(c) Vigo Nielsen is the Senior Partner of Dobbs and Nielsen who personally incorporated Californians for Common Sense and who personally prepared the campaign financing disclosure statement required by the California Fair Political Practices Act. Such disclosure statement revealed that virtually all moneys transferred to Californians for Common Sense came from the out-of-state Tobacco Industry. Subsequent to the filing of such disclosure statement, Mr. Nielsen declared under oath as a witness in a California court of law that he did not remember who it was who asked him to incorporate and to represent Californians for Common Sense and that he did not know whether his client was "represented or in any way associated with the tobacco industry." (See Exhibit D-2)

(d) All paid advertisements against Proposition 5 contained the deceptive Tag-line "Paid for by Californians for Common Sense".

(e) John Greenagel is a public relations professional who represented the Tobacco Industry in six of the television and radio debates on Proposition 5 and whose $4,500 in fees were paid by Tobacco Industry moneys through its agent Californians for Common Sense. Greenagel represented publicly on several occasions that he was merely a concerned small businessman speaking against Proposition 5 as a volunteer. However, only a few days before election day he admitted he was being paid for his appearances. (See Exhibits D-3 and D-4)

In the 1978 No on 5 Campaign, the Tobacco Industry took the unprecedented step of beginning its broadcast media advertising against Proposition 5 in July of 1978 and continued its massive advertising efforts every day from then until election day. The almost $6½ million the Tobacco Industry spent against Proposition 5 set a new record for spending in a California election that still has not been surpassed. Indeed, the Tobacco Industry's campaign spending exceeded the combined spending by both candidates for California Governor in the same election. (See Exhibit E.)

Shortly after the media blitz against Proposition 5 began, Mervin Field's California Poll demonstrated Californians favored the measure 58% to 38%. (See Exhibit F-1.) Despite the fact that most of the newspaper, radio and television news coverage was generally favorable to the measure, the media barrage against it slowly eroded support among voters. Proposition 5 was ultimately defeated.

Research published by Mervin Field after the 1978 election found, in effect, that public knowledge of the Tobacco Industry's involvement in the No on 5 cause reduced the credibility of the No on 5 Campaign. (See Exhibit G.) Accordingly, the Tobacco Industry concealed to the extent it could its involvement in the 1978 No on 5 Campaign. In its 1980 No on 10 Campaign the Tobacco Industry is taking even stronger steps to conceal from the public in California that it is the sole source of funding for the broadcast advertising campaign against Proposition 10.

B. THE TOBACCO INDUSTRY'S 1980 CAMPAIGN - A MORE SOPHISTICATED PLAN OF DECEPTION

In 1978 the Tobacco Industry's advertising campaign of unprecedented length and market saturation resulted in a September 23, 1978 campaign financing disclosure statement (required by the California Fair Political Practices Act) showing that more than $3 million had already been transferred to Californians for Common Sense and that 99.6% of such money came from the Tobacco Industry. Such revelation created a minor sensation and was widely reported.

In the 1980 Proposition 10 Campaign, the Tobacco Industry has implemented a far more sophisticated scheme to conceal from the California voters both the fact and the extent of the Tobacco Industry's involvement in the No on 10 Campaign. This scheme includes the following:

(a) Operating through a front organization with the deceptive name Californians Against Regulatory Excess;

(b) Causing its professionally managed campaign to make numerous public and private statements either to the effect that (i) the Tobacco Industry would not be involved in the Proposition 10 Campaign or that (ii) it was uncertain whether the Tobacco Industry would be involved, or that (iii) if the Tobacco Industry were not involved, Californians Against Regulatory Excess could run a viable campaign without tobacco money. (See the Declaration, the letter from Excess and the Los Angeles Times interview with Excess Campaign managers attached hereto as Exhibits H-1 through H-3);

(c) Causing Woodward, McDowell and Larson to write and produce advertisements against Proposition 10 containing a tag-line of "Paid for by Californians Against Regulatory Excess" (See enclosed cassette tape of No on 10 radio advertisements);

(d) Deferring massive spending on advertising against Proposition 10 until September 24, 1980, the day after the cutoff date for disclosing campaign expenditures as required by the California Fair Political Practices Act. On September 23, 1980, the No on 10 Campaign (i) reported receipts of $389,099 (ii) reported that most of that money had already been spent, and (iii) reported no expenditures for television, radio or billboard advertising. Within 10 days thereafter, the No on 10 Campaign purchased advertising air time on 50 television stations and 105 radio stations throughout California. (See Exhibit H-4.);

(e) Blanketing the State promptly after September 23, 1980 with billboards stating "No on 10. This Time It's Even Sneakier"; and

(f) Refusing to disclose further transfers from the Tobacco Industry, stating only that they would "be very limited". (See Exhibit H-5.)

Californians are now being bombarded by broadcast advertisements against Proposition 10 almost as frequently as they were with almost identical advertisements against Proposition 5 two years ago. The only difference is that there was a much greater public awareness two years ago that the Tobacco Industry was behind the No on 5 advertisements. Due to the Tobacco Industry's calculated policy of deception, there is very little public awareness that the advertisements against Proposition 10 are paid for by the Tobacco Industry.

C. 100% OF NO ON 10 ADVERTISING IS PAID FOR BY THE TOBACCO INDUSTRY

The campaign financing disclosure statement filed by Californians Against Regulatory Excess for the period ending September 23, 1980 (attached hereto as Exhibit I) disclosed that 98% of the money transferred to Excess ($381,262 of a total of $389,099) came directly from the Tobacco Industry.

The exercise of reasonable diligence by broadcast stations would determine that all moneys transferred to Excess after September 23, 1980 came from the Tobacco Industry.

The Excess Campaign spending disclosure statement as of September 23, 1980 together with the copy of the Excess mailing (attached hereto as Exhibit J-1) reveal that the $7,837 transferred to Excess from non-tobacco sources resulted from a mailing financed by the Tobacco Industry. The mailing requested each recipient to make a contribution of only $3.00 to Excess. Direct mail fundraising experts have advised Yes on 10 that, given the economics of direct mail, such a mailing would cost many times more to prepare and distribute than it raised in contributions, and that such a mailing could not be used to help finance a campaign but could only be for the political purpose of enabling Excess to claim it has received numerous small contributions. (See Declaration of Larry Levine attached hereto as Exhibit J-2.)

Since the $7,837 received by Excess from small contributors is dwarfed by the moneys spent to raise that sum, it cannot be claimed that any part of that $7,837 has been used for the purchase of air time. Thus 100% of the moneys used for the purchase of air time has quite literally been "Paid for by the Tobacco Industry".

D. THE NO ON 10 ADVERTISEMENTS ARE PAID FOR BY CIGARETTE MANUFACTURERS ACTING IN CONCERT AS "THE TOBACCO INDUSTRY"

The No on 5 advertisements were paid for and the No on 10 advertisements are being paid for by a distinct entity called the Tobacco Industry. The cigarette manufacturers are acting in concert as a single entity to attempt to defeat Propositions 5 and 10. This is evidenced by the decisions of the cigarette

manufacturers to contribute to the "No" campaigns in proportion to each company's relative share of the tobacco market:

1980 No on 10 Campaign*

Company	Relative 1979 Market Share Among Contributing Companies	% of Cash Contributions Among Contributing Companies
Lorillard	11.4%	11.0%
R. J. Reynolds Tobacco	38.1%	40.1%
Brown & Williamson Tobacco Co.	16.8%	17.4%
Philip Morris	33.6%	31.5%

1978 No on 5 Campaign**

Company	Relative 1977 Market Share Among Contributing Companies	% of Cash Contributions Among Contributing Companies
Lorillard	10.0%	10.0%
R. J. Reynolds Tobacco	37.7%	39.9%
Liggett & Myers	4.0%	0.5%
Brown & Williamson Tobacco	18.0%	19.8%
Philip Morris	30.3%	29.8%

Stanton A. Glantz, Ph.D., the author of two books on statistics and mathematics and who teaches statistics and mathematics at the University of California at San Francisco has concluded that there is less than 1 chance in 10,000 that the relative sizes of the tobacco companies monetary contributions are not in proportion to their relative shares of the tobacco market. His thorough statistical analysis is attached hereto as Exhibit K-1.

---

* See No on 10 campaign financing disclosure statement as of September 23, 1980 and market share report in the March 1980 issue of the Tobacco Reporter attached hereto as Exhibit K-2.

** See No on 5's final campaign financing disclosure statement and market share report in the April 5, 1979 issue of the United States Tobacco Journal attached hereto as Exhibit K-3.

The relative market shares were computed as follows:

In 1977 the five cigarette manufacturers which contributed to No on 5 accounted for 87.6% of the tobacco market. R.J. Reynolds accounted for 33.0% of the total market, so its relative market share among the contributing companies was 33.0% divided by 87.6% equaling 37.7%. The relative market shares of the other companies in 1977 and 1979 was computed in the same way.

E. TAG-LINES INFLUENCE VOTERS AND ARE CRUCIAL TO THE ELECTION RESULT

The elaborate steps taken by the Tobacco Industry in an attempt to hide its involvement are testimony to the importance of the Tag-line issue. Two professional public opinion polls document with precision how adversely the credibility of the No on 10 advertisements would be affected if the Tag-lines identified the Tobacco Industry as the sponsor.

The Roper Poll, commissioned by the Tobacco Institute in 1978, found that "favorable attitudes toward the tobacco industry are at their lowest ebb." (See Exhibit L-1)

A September 1980 poll executed by Fairbanks/Canapary/Maullin (the relevant part of which is summarized in the Declaration attached hereto as Exhibit L-2) is even more precise. Together with 50 other questions, respondents were asked: "If you knew very little about a California ballot proposition, would you be more inclined or less inclined to vote for a proposition that was endorsed by:

(a) American Cancer Society
(b) American Heart Association
(c) Lloyd Bridges
(d) The Tobacco Industry
(e) California Lung Association
(f) Nobel Prize Winners
(g) Bar Owners
(h) Doctors and Medical Associations
(i) Californians Against Regulatory Excess
(j) Chamber of Commerce
(k) National Association of Senior Citizens
(l) Local Chiefs of Police and Sheriffs
(m) United States Surgeon General

The polling firm found that 67.2% of the respondents would be <u>less</u> <u>likely</u> to vote for a proposition endorsed by the Tobacco Industry. Only 4.2% would be more likely to vote for a Tobacco Industry endorsed measure.

On the other hand 70.9% would either be more inclined to vote for or be indifferent to a measure endorsed by Californians Against Regulatory Excess. Only 28.9% would be less likely to vote for an Excess endorsed measure.

F. THE TOBACCO INDUSTRY HAS EDITORIAL CONTROL OVER THE NO ON 10 ADVERTISING

The Tobacco Industry and its agent and alter ego Excess, as part of their calculated strategy to deceive, have denied that the Tobacco Industry controls editorial content of No on 10 advertising. However, the existence of such Tobacco Industry editorial control is demonstrated by the following facts and circumstances:

1. The Tobacco Industry Had Editorial Control Over the No on 5 Campaign

Before the 1978 election the Tobacco Industry and its alter ego, Californians For Common Sense, vigorously denied that the Tobacco Industry controlled the No on 5 campaign. However, immediately after the 1978 election the Tobacco Industry readily admitted its control of the No on 5 Campaign at a meeting in Washington D.C. of the American Association of Political Consultants.

At that meeting Ed Grefe, Vice President for Public Affairs of Philip Morris, disclosed the techniques the Tobacco Industry used to defeat Proposition 5. Richard Woodward and Hal Larson of Woodward, McDowell & Larson, appeared at the side of Philip Morris' Vice President. Hal Larson, the person who wrote the No on 5 advertising copy, was introduced as a "campaign strategist for the industry."

The comments of Ed Grefe made it very clear whose campaign it was. The Philip Morris Vice President said: "When we shifted the battleground from smoking to government involvement, we were able to use the Prop. 13 environment to our advantage." Reports of the meeting make it clear that the discussion focused on "the tobacco industry's mapping of its campaign," on "the industry's . . . conducting public opinion surveys, and on how "the industry separated its advertising campaign into three phases." (See Exhibit M)

2. The Proposition 10 Campaign Is Merely One Part In The Continuation of a NATIONAL Campaign Involving the Tobacco Industry Begun with Proposition 5

It is crucial for the FCC to understand that Proposition 10 is merely a part of a national campaign involving the Tobacco Industry which was begun in September 1977 when citizens began collecting signatures to qualify Proposition 5 and when the Tobacco Institute hired Woodward, McDowell & Larson to manage its No on 5 campaign. The campaign continued in Dade County, Florida, and is now being actively fought on two fronts - in California and in Dade County, Florida.

Proposition 5 was narrowly defeated on November 7, 1980. Promptly thereafter the United States Tobacco Journal, the official organ of the Tobacco Industry, ran an editorial attached as Exhibit N congratulating the Tobacco Industry for having defeated Proposition 5 but warning that the proponents of Proposition 5 are likely to try again:

> "The cigarette industry can breathe a sigh of relief now that the vote is in on California's Proposition 5. . . .
>
> But while the industry can breathe its sigh of relief, it is very much aware that it cannot relax its guard. A very important battle has been won, but the war is still on. The makers of the so-called Clean Indoor Air Act may be disappointed with their failure to achieve their election day objective, but there's no reason to suspect that they'll abandon or lessen their crusade. Not when the margin of their defeat was so narrow. They'll be back propositioning the electorate - if, in fact, they've ever stopped.
>
> The entire tobacco industry . . . has an important stake in what happens in California. What happens in the nation's most populous state - a state which incidentally accounts for more than 9% of the nation's cigarette consumption - impacts nationally. The nation, as was so impressively demonstrated by the aftermath of Proposition 13, follows California's lead. So, while the defeat of Proposition 5 was a victory for the California tobacco trade and the cigarette manufacturers, it was also a victory for everyone in the tobacco industry in this country and by the same token, if the anti-bacs are successful with their next initiative in California, it will be a defeat for everyone in the tobacco business.
>
> It would not be inappropriate in the least if everyone in the industry took a participatory interest in the defeat of California's future Proposition 5." (Emphasis supplied)

Two things are noteworthy about the editorial:

(a) The editorial congratulated the Tobacco Industry for having defeated Proposition 5. Neither Californians For Common Sense nor any California citizens group was even mentioned in the editorial. The editorial correctly identified the real party in interest.

(b) The editorial insisted that the Tobacco Industry must be prepared to go forth and actively do battle against any new California initiatives. The editorial did not suggest that the Tobacco Industry should be prepared to assist California citizens' groups if and when such citizens' groups independently rise up to fight new proposed laws.

In 1979 in Dade County, Florida the Tobacco Industry fought an initiative modeled after Proposition 5 which was voted upon on May 8, 1979. In just one county the Tobacco Industry spent $995,000 to fight that measure. Tobacco Industry money comprised 99.4% of the $1,001,000 spent to defeat the no smoking sections initiative. Despite being outspent almost 100 - 1, the citizens lost their battle against the Tobacco Industry by only 820 votes.

The Dade County, Florida citizens have placed another initiative on the November 1980 ballot. The Tobacco Industry has already spent $321,000 against the new Dade County initiative. Every penny spent against the 1980 Dade County initiative has come from the Tobacco Industry.

3. The Tobacco Industry Retained the Same Agents In Its No on 5 Campaign, Its No on 10 Campaign and Its Dade County Campaign. The Tobacco Industry Has Run Essentially the Same Campaign In Each Instance.

If the Tobacco Industry did not have policy making control in each of its campaigns and if each of the "no" campaigns were truly controlled by local citizens, the same political operatives would not work in all campaigns nor would the campaign techniques utilized in all "no" campaigns be virtually identical. However:

> Woodward, McDowell and Larson did all the media and billboard advertising work for the No on 5 campaign and the Dade County campaign, and is doing the media and billboard advertising work in the Proposition 10 campaign. (See Exhibit O.) The Tobacco Industry determined that Woodward, McDowell and Larson be hired for No on 10. Such a determination is irrefutable evidence that the Tobacco Industry controls advertising policy.
>
> V. Lance Tarrance did the public opinion polling for No on 5 and the Dade County campaign, and is doing the polling for No on 10. (See Exhibit P-1.)
>
> Dobbs & Nielson did all the legal work for No on 5 and is doing all the legal work for No on 10. (See Exhibits D-2 and P-2.)

The Tobacco Industry in the Proposition 10 Campaign has attempted to obtain political benefit from the acronym of its agent's name - Californians Against Regulatory Excess (CARE). If one is to believe the Tobacco Industry's claim that the 1980 California and Dade County "no" campaign's are both independent citizens' campaigns which are free from the Tobacco Industry's editorial control, one must be a great believer in unusual coincidences. For in Dade County the 1980 "no" campaign calls itself Floridians Against Increased Regulation (FAIR). It strains credulity to believe that two citizens' groups at both ends of the continent would simultaneously and independently conceive of names that stress governmental regulation and have motherhood and apple-pie type acronyms. Such claims are particularly unbelievable since Excess represents that Woodward, McDowell and Larson were not hired until after September 23, 1980, long after the acronyms CARE and FAIR were put into use.

The names CARE and FAIR, however, are not the only similarities. Each of the "no" campaigns has been an almost exact replica of each of the other "no" campaigns:

(a) The "no" television and radio advertisements are almost identical in all campaigns. They are identical in terms of themes as well as techniques (See Exhibit P-3.);

(b) The No on 10 matchbooks distributed all over California have the same color and typeface as the No on 5 matchbooks;

(c) Similar grapic art work has been used in all campaigns;

(d) Both the No on 5 and No on 10 campaigns sent out a phony "fund-losing" mailer at a net loss solely for the political purpose of enabling the "no" campaigns to state they had some non-tobacco money;

(e) Houston Flournoy and Peter Pitchess were the figureheads who signed the ballot arguments against both Propositions 5 and 10 in the California Secretary of State's Voters Pamphlet;

(g) All "no" campaigns relied on demonstratively false taxpayer cost "studies". The Tobacco Industry produced a "study" alleging that Proposition 5 would cost taxpayers $20 million for signs (despite the fact that the neutral California Legislative Analyst stated that the study's methodology was faulty and despite the fact that the study contained a crucial arithmetic error. When the error was corrected, the study concluded that the taxpayer sign cost would only be $20,000.) California Superior Court Judge Irving Perluss held that the No on 10 governmental cost studies were "false and misleading." In Dade County a similar taxpayer cost" study was produced;

(g) No on 5 continued radio and television "spots" alleging a $20 million taxpayer cost for signs even after the arithmetic error was discovered. No on 10 produced and is now running radio advertisements making the same taxpayer cost statements a California court found to be "false and misleading";

(h) All campaigns spent incredibly large amounts of money and all have been more than 99% funded by the Tobacco Industry; and

(i) All campaigns misrepresented Tobacco Industry Involvement.

4. Contrary to Statements by Excess, the Tobacco Industry Decided To Fight and Actually Began Fighting Proposition 10 Long Before Excess Was Formed.

Excess has claimed that the fight against Proposition 10 began on July 8, 1980, the day Excess was incorporated. Excess claims the decision by the Tobacco Industry to contribute to No on 10 was made after Excess was formed and only because of the entreaties made by Excess. (See Exhibit P-4)

Such a claim is legally irrelevant to the instant request for declaratory relief. The authorities cited below clearly demonstrate that a committee which is independent of another party at the time of the committee's formation can subsequently become the agent of the other party. Nevertheless, evidence that the Tobacco Industry began fighting Proposition 10 long before July 8, 1980 is also evidence of the Tobacco Industry' editorial control over the No on 10 campaign:

(a) Joe Cerrell, a paid political consultant to Philip Morris openly admitted in June of 1980 before Californians Against Regulatory Excess was ostensibly "organized" that the Tobacco Industry had decided to "come into the Proposition 10 Campaign." (See Declaration attached as Exhibit Q-1.);

(b) During the winter of 1980 the Chairman of Yes on 10 had a conversation with an employee of Dobbs and Nielson (the law firm which represents the Tobacco Industry's agents). The employee informed the Yes on 10 Chairman that Dobbs and Nielson was doing a lot of work with respect to the Yes on 10 organization and that papers on which the Yes on 10 Chairman's name appeared were strewn all over the office. (See Exhibit Q-2.) Unless one is prepared to believe that Dobbs and Nielson was doing unsolicited pro bono work for the Tobacco Industry, one must conclude that Dobbs and Nielson was being paid to advise the Tobacco Industry on how to implement the Industry's plan to deceive voters regarding its No on 10 involvement without violating California's Fair Political Practices Act.

(c) The Greene Bill and Its Dade County Equivalent

In 1978 the Tobacco Institute commissioned the Roper Organization to conduct a public opinion poll (the relevant parts of which are attached as Exhibit R-1) to assist it with its political problems. The poll found that:

(i) fears of nonsmokers about inhaling second-hand smoke have risen sharply in recent years - a fact that " . . . represents the most dangerous development to the viability of the tobacco industry that has yet occurred";

(ii) "there is already majority sentiment for providing separate facilities for smokers and nonsmokers"; and

(iii) in the future, "the pressure for segregated facilities will change from a ripple to a tide."

In its analysis, the Roper Organization suggested to the Tobacco Industry " . . . some short term tactical approaches that may slow the efforts of the anti-smoking forces." Chief among those tactical approaches was that whenever meaningful separate sections legislation is proposed and seems likely to be enacted, the Tobacco Industry should lobby for watered down legislation that appears to protect nonsmokers but in reality does not. (See Exhibit R-1)

In 1980 the Tobacco Industry implemented the Roper Organization's "tactical approach" in California and in Dade County.

In March of 1980 (while signatures were still being collected to qualify Proposition 10 for the ballot and long before Excess was organized) the Tobacco Industry caused California State Senator Bill Greene (to whom $20,000 had been transferred by the No on 5 campaign in 1978 as shown by Exhibit R-2) to introduce SB 2026 (the "Greene Bill"). Most of the Greene Bill (a copy of which is attached as Exhibit R-3) was word for word identical to Proposition 10. The Greene Bill, using language identical to Proposition 10, provided for smoking and no smoking sections in indoor public places and indoor places of employment, but also permitted any place to be designated in its entirety as a smoking area, thereby taking away with the right hand what the left hand had given. The Sacramento Bee editorial page correctly pointed out that the Greene Bill was:

> "an attempt at a pre-emptive strike, a diversionary measure which, though worded in part precisely like the proposed initiative, is so full of exemptions and loopholes that its net effect would be worse than no new legislation at all." (See Exhibit R-4.)

Meanwhile in Dade County, the Tobacco Industry implemented identical tactics by causing a "look-alike" bill to be introduced before the Board of County Commissioners which, if passed, will cause many Dade County citizens to vote against the 1980 initiative because they falsely think the bill has already accomplished the same objective. (See Exhibit R-5.)

This evidence from Joe Cerrell, from Dobbs and Nielson, from the Roper Poll and the identical and almost simultaneous pre-emptive strikes in both California and Dade County show not only that the Tobacco Industry was fighting Proposition 10 before Excess was created, but also that the No on 10 Campaign is only part of the national campaign waged through its many agents by the Tobacco Industry.

5. Excess Misrepresented the Membership of Its "Board of Directors".

In its October 2, 1980 letter to Station Managers and Legal Counsel attached hereto as Exhibit S, Excess misrepresented the membership on its "Board of Directors" by untruthfully stating that the President of the California Restaurant Association was an Excess Board member. On Friday October 10, 1980 Mr. James Collins, the President of the California Restaurant Association, stated that he was not a Board member of Californians Against Regulatory Excess, that he had never received any notice of any Excess Board meeting, that he had never attended an Excess Board meeting, and that he has avoided any discussion of No on 10 strategy. Mr. Collins stated that he did allow Excess to use his name in an Excess letter to California Restaurant Association members. (See Exhibit T-2.)

Only an examination of the files and records of Excess can disclose how many other misrepresentations there are in Excess' October 2, 1980 letter to Station Managers.

6. The Excess Board Does Not Control Advertising Policy

It is noteworthy that Excess' October 2, 1980 letter to Station Managers did not claim that its Board of Directors controlled campaign policy. The letter merely claimed that the "Board meets regularly to discuss campaign activities" There is a vast difference between "discussing campaign activities" and controlling policy.

While the October 2, 1980 letter does state that the Board of Directors has not delegated editorial control to anyone, it does not claim that the so-called Board ever had any such control. A transcript of a KNXT Los Angeles television interview with Ms. Karen Peters, purportedly a Board member of Excess, illustrates how little control or even knowledge of policy resides in Excess' so-called Board. When asked about the most fundamental issue facing campaign policymakers - campaign finance - Ms. Peters responded that she was only a volunteer and knew little or nothing of such things. (See Exhibit H-1)

Due diligence by broadcast stations would determine that Woodward, McDowell and Larson, "campaign strategists for the industry", together with Ed Grefe of Philip Morris and Ed Grefe's counterparts at R. J. Reynolds, Brown & Williamson, Lorillard and the Tobacco Institute prepare advertising copy based solely on the public opinion polling of V. Lance Tarrance, that the Board gives no direction to Woodward, McDowell and Larson, and that the Board has made no changes in advertising copy prepared by "the campaign strategists for the industry."

The Tobacco Industry can obviously afford to hire lawyers capable of ensuring that legal formalities are followed. There is no doubt that Excess is properly incorporated or that Tobacco Industry checks go through Excess before payment is made to broadcast stations. However, the FCC should utilize the IRS "step transaction doctrine" to ensure that form is not elevated over substance.

7. The Tobacco Institute Is Interchangeable With the No on 10 Campaign

Tobacco Institute personnel, propaganda, materials and themes are interchangeable with No on 10 and No on 5 personnel,materials and themes.

Until a few months ago Bill Dwyer and Connie Drath were two of the four official spokespersons for the Tobacco Institute (See Exhibit U-1.) These two photogenic and articulate people travelled continuously throughout the country debating against advocates of smoking and no smoking sections legislation and defending the interests of the Tobacco Industry on local and national radio and television programs. Now they are being paid by Excess to debate Yes on 10 spokespersons on local and national television and radio programs. (See Exhibit V-1.)

James McKinney, a paid staffperson of Excess, quoted extensively from the Tobacco Institute brochure attached as Exhibit V-2 during a KNBR radio debate in San Francisco with Yes on 10 spokespersons on October 7, 1980.

Stu Spencer, the national political adviser to the Tobacco Institute, is also a consultant to Excess (See Exhibit V-3)

The graphic artwork attached as Exhibit W comes from the Tobacco Observer, the propaganda outlet for the Tobacco Institute. The identical graphic artwork was displayed as a convention booth paid for by No on 5. The same graphic artwork appeared on the face of a No on 5 brochure (See Exhibit X.)

While the fungibility of artwork, advertising themes and personnel does not prove Tobacco Industry involvement, it raises a serious question that should by itself shift the burden to Excess to prove that it is not the alter ego of the Tobacco Industry.

V. LEGAL DISCUSSION

A. THE SPONSORSHIP IDENTIFICATION RULE

The principal that "listeners are entitled to know by whom they are being persuaded" is an integral part of federal communications law. In Re Applicability of Sponsorship Identification Rules, 40 FCC 141 (1963).

The relevant parts of 47 CFR 73.1212 (the "Identification Rule") reads:

"(a) when a broadcast station transmits any matter for which money . . . is paid or promised to . . . such station, the station, at the time of the broadcast, shall announce (1) that the matter is sponsored, paid for or furnished . . . , and (2) by whom or on whose behalf such consideration was supplied . . . .

(e) The announcement shall . . . fully and fairly disclose the true identity of the person or persons, or corporation, comittee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised. . . . Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence . . . could be known by the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent."

The facts set forth above make it clear that Excess, acting as the Tobacco Indutry's alter ego, is acting as the agent for that Industry. The intent behind the law, the clear words of the Identification Rule and case law require the Industry's advertisements to be identified as "paid for by the Tobacco Industry" so that listeners can know by whom they are being persuaded.

B. THE WHAS-TV DECISION

The Sixth Circuit's decision in United States v. WHAS-TV, Inc., 385 F 2d 784 (6th Cir. 1967) is crucial to the instant Request since the facts of that case are so close to the instant facts and since the FCC's Identification Rule was amended in 1975 for the express purpose of changing the Sixth Circuit's interpretation of the then existing rule.

In the 1963 campaign for the Democratic nomination for Governor of Kentucky, the two leading candidates were former Governor Chandler and a certain Mr. Breathitt. Television station WHAS-TV in Louisville carried a program entitled "The Chandler Years in Review" critical of the former Governor's record and designed to promote the candidacy of his opponent, Mr. Breathitt. This program was nominally sponsored, and the time paid for, by "The Committee for Good Government", and was so announced over WHAS-TV.

When the Committee for Good Government was formed, all legal formalities were observed. Indeed, the Committee for Good Government was formed more than one year prior to the gubernatorial campaign for the express purpose of "improving local government in Pike County, Kentucky." Like Californians Against Regulatory Excess, however, the Committee for Good Government became a front organization for the Breathitt campaign. Funds from the Breathitt organization were transferred to the Committee for Good Government to enable it to pay for the advertising.

The FCC attempted to fine WHAS-TV for violation of the Identification Rule, but was frustrated by Sixth Circuit which held that the then existing Sponsorship Identification Rule was too ambiguous to permit such a fine. The Court, however, added:

"In affirming (the District Court's) decision we are by no means precluding the FCC from adopting a Regulation calculated to require a station to make reasonable efforts to go beyond a named 'sponsor' for a political program in order to ascertain the real party in interest for purposes of announcement."

The Court concluded:

> "Whatever the difficulties may be (in promulgating such a Regulation), it seems obvious to us that the Commission should seek to face and resolve them in a published Regulation rather than relying on the intuition of its licensees"
> (385 F. 2d 784, 788)

C. The 1975 Amendment of the Identification Rule

In 1975 the FCC amended its Identification Rule specifically "because of the WHAS decision." Federal Register, Vol. 40, No. 82, 18395 (Monday, April 28, 1975) (hereinafter sometimes referred to as the "1975 Notice" and attached hereto as Exhibit T.)

The purpose of the amendment was:

> " to clear up any misunderstanding about whether the statute and rules require a licensee, who knows, or has reason to know the facts, to adequately identify the person or persons paying for . . . the material broadcast. . . . Where a political broadcast is presented . . . by a committee which is really a campaign instrumentality for a candidate or a political organization, the public be made aware of the latter fact."
> (34 FCC 2d at 1105)

The breadth of the FCC's requirement is indicated by its rejection of NBC's argument against the new amendment. NBC argued that the amendment would place an impossible burden on licensees, and asked rhetorically how far a licensee must penetrate the political fund-raising process to ferret out the person or group whom the Commission will deem to be the "principal" of the "agent".

The FCC, in reply, admitted that the new amendment would place some administrative burdens on stations, but:

> " Broadcasters are licensed to act as trustees for a valuable public resource and, in view of the public's paramount right to be informed, some administrative burdens must be imposed on the licensee in this area. These burdens simply run with the territory." (Federal Register, Vol. 40, No. 82 at 18398)

Given that the new amended rule was adopted specifically to overrule the WHAS-TV decision, there should be little question that the Tag-line of Excess' No on 10 spots must, in the words of the FCC Identification Rule:

> "fully and fairly disclose the true identity of the . . . entity . . . on whose behalf such payment (for air time) is made or promised. Where an agent (i.e. Californians Against Regulatory Excess) contracts with a station on behalf of another (i.e. the Tobacco Industry), . . . the announcement shall disclose the identity of the entity on whose behalf such agent is acting instead of the name of such agent."

D. Whether Or Not Excess Was Formed Before Or After The Tobacco Industry Took Control Is Irrelevant

Excess claimed in its October 2, 1980 letter to Station Managers that it was formed independently of the Tobacco Industry. Although the evidence indicates this is untrue, it is irrelevant whether or not it is true. In WHAS-TV the Committee for Good Government was originally formed independently of the Breathitt campaign, but later became controlled by the Breathitt organization.

The editorial control of Excess' advertisements is now clearly controlled by Woodward, McDowell and Larson, "the campaign strategists for the industry", (See Exhibit M) and by Ed Grefe and his counterparts. Whether Excess was tainted at birth is irrelevant. What is relevant is that today, in waging a massive media effort to influence the outcome of an election in California, Excess is the alter ego and agent of the Tobacco Industry.

E. Legal Formalities Are Irrelevant

The WHAS-TV case and In Re KOOL-TV, 26 FCC 2d 42 (October 15, 1970) make clear the irrelevance of the facts that:

> " The Committee (Excess) is properly organized as a non-profit corporation, (sic) we have received tax exempt status from the IRS and California Franchise Tax Board, and we follow all the formal and prudent operating procedures required of California Corporations."

F. In Re KOOL-TV

In Re KOOL-TV, 26 FCC 2d 42 (October 15, 1970) attached hereto as Exhibit Z is further authority for the Yes on 10 position. In that case television advertisements favoring the U.S. Senate candidacy of Sam Grossman had the Tag-line "Paid For By A Lot Of People Who Would Like To See Sam Grossman Elected To The U. S. Senate (hereinafter called "Lot of People"). In the course of a FCC investigation, the Sam Grossman campaign organization argued that one of the campaign organizations formed to support Mr. Grossman's candidacy was indeed formally named "A Lot Of People Who Would Like To See Sam Grossman Elected To The U. S. Senate". It is clear from such response that there was in existence a committee or a board of directors which met to "discuss campaign strategy" in the same way the Excess Board purportedly meets. It is

clear that all the legal formalities were carefully observed. However, it was also clear to the FCC that the Lot of People committee was comprised of good-hearted and honest people who had no control over advertising policy, that all such decisions came from the Sam Grossman campaign, and that all the money came from the Sam Grossman campaign.

The FCC held, therefore, that the use of such a name as the Tag-line for television spots:

> "does not achieve the basic purpose underlying the sponsorship identification requirements . . . namely, that the public is entitled to know by whom it is being persuaded. The language here employed for sponsorship indentification was so general that it did not convey to listeners and viewers the fact that the announcements were sponsored by a specific entity, i.e., a committee supporting Mr. Grossman's candidacy." (Emphasis added)

The FCC clearly knew that use of a Tag-line such as Lot of People would conjure up in the minds of viewers a false impression that a group of concerned citizens without connection to Sam Grossman felt so strongly about his candidacy that they independently raised the money and produced the advertisements in question.

Use of the Tag-line "Paid for by Californians Against Regulatory Excess" in No on 10 Advertisements similarly creates a false impression in viewers' and listeners' minds that irate groups of Californians have organized and raised money from California sources to combat what they as Californians perceive as being a law which is undesirable for Californians. The contrary is of course true. Californians have not paid for the spots. The spots, are paid for and controlled by eastern tobacco companies.

G. V.O.T.E.R. AND NATIONAL WELFARE RIGHTS ORGANIZATION

The instant case is easily distinguishable from the complaint of V.O.T.E.R. against fifteen New York City area broadcast stations reported in Pike and Fisher, 46 RR 2d 350. V.O.T.E.R. alleged that Westchester Citizens Against Government Takeover obtained "all or a a very substantial part of its funds directly or indirectly from Consolidated Edison and failed to allege that Consolidated Edison had editorial control of Westchester Citizens' advertising. In the instant case Yes on 10 has demonstrated the Tobacco Industry's editorial control of No on 10 advertising and has shown that 100%* of the cost of No on 10 air time has been paid for by the Tobacco Industry.

---

*As in 1978 the Tobacco Industry may obtain some nominal additional funding from non-tobacco sources. To date, however, as demonstrated above, non-tobacco money is not sufficient even to pay the actual cost of raising the funds. Excess' real operating capital, including money to pay for broadcast advertising, comes in its entirety from the Tobacco Industry.

National Welfare Rights Organization v. Gilmore Broadcasting Corp. et. al. 41 FCC 2d 187 (1973) is also clearly distinguishable from the instant case. In the National Welfare Rights case the American Academy of Pediatrics clearly initiated the public service message concept, drafted the copy itself and sent it to CIBA Pharmaceutical as a method of raising production funds in the same manner that Yes on 10 volunteer fundraisers show Yes on 10 advertisements to potential contributors. A contributor likes to know how his or her contribution will be expended. No CIBA Pharmaceutical control over the advertising copy was demonstrated.

In the instant case, however, advertising copy is drafted by the "campaign strategists for the industry." Other evidence of editorial control by the Tobacco Industry has been presented as completely as is possible without subpoena power. The whole story of Tobacco Industry involvement lies in the files and records of Excess, the Tobacco Institute and the members of the Tobacco Industry.

Moreover, the National Welfare Rights case involved small sums of money only for production of a public service message. The costs of conceiving and writing copy and the costs of arranging for production and placement of the message were paid for by the Americna Academy of Pediatrics. The instant case involves millions of dollars of purchased air time for political messages, 100% of which is paid for by the Tobacco Industry.

H. EXCESS IS THE ALTER EGO OF THE TOBACCO INDUSTRY. THE FCC SHOULD PIERCE THE CORPORATE VEIL

Professor Warner Fuller's statement in the Harvard Law Review is particularly applicable to the instant request: Where ". . . the corporate devise has been used to defraud creditors, to evade existing obligations, to circumvent a statute, . . . or to protect knavery . . . ," the courts will pierce the corporate veil. Warner Fuller, The Incorporate Individual: A Study of the One-Man Company, 51 Harvard Law Review 1373, at 401 (1938).

The Tobacco Industry is trying to use the incorporation of Excess as a device to circumvent a statute - Section 317 (c) of the Act - and to protect the knavery and deceit described in these pages.

The other classic characteristics of an alter ego are present and documented above. Although the Tobacco Industry has been very diligent in observing legal formalities in structuring Excess, in the words of Mr. Justice Stone, "those familiar with present day methods of corporate control will not be so naive as to suppose that the complete domination in fact of its subsidiaries by a holding company owning all their stock is in any way inconsistent with scrupulous recognition of their separate corporate entities, or with the maintenance of separate accounts and distinct personalities of officers and directors."

The Tobacco Industry has complete domination in fact of its alter ego. One of Excess' purported Board members is completely unaware of his place on the Board and has never received a notice of any Board meeting. Another purported Board member, when asked by a television show moderator about the most fundamental issue facing campaign policymakers - campaign finance - responded that she is only a volunteer and knows little or nothing about such things.

The FCC's duty to protect the public interest requires it to pierce this corporate veil which shrouds listener and viewer awareness of who is paying for the Tobacco Industry advertisements.

I. U. S. SUPREME COURT DICTA Dicta

Dicta in a recent U. S. Supreme Court opinion indicate that our highest court agrees with the Yes on 10 position in this application.

In First National Bank of Boston v. Belloti, 435 US 765 (1978) the Court struck down a state law limiting the amount that corporation may spend on ballot measures such as Proposition 10. In doing so, the court expressed its belief in the people's ability to judge and evaluate "the relative merits of conflicting arguments" even though one set of arguments are advanced by wealthy corporations. The Court then pointed out that the people:

> "may consider in making their judgements, the source and credibility of the advocate." 435 US at 791.

The Supreme Court continued by stating:

> "Corporate advertising, unlike some methods of participation in political campaigns, is likely to be highly visible. Identification of the source of advertising may be required as a means of disclosure, so that the people will be able to evaluate the arguments to which they are being subjected." 435 US at 791, f.n. 32.

If the Tobacco Industry were allowed to hide behind the front "Californians Against Regulatory Excess", the major assumption underlying the Bellotti decision would be untrue. The people would not be able to judge and evaluate the relative merits of conflicting opinions on Proposition 10 if they are unable to consider "the source and identity of the advocate" because of a calculated campaign strategy by the tobacco industry to hide the involvement of the Tobacco Industry from the people of California.

Requiring the Tobacco Industry to be identified as the sponsor of No on 10 spots will be consistent with former Justice Lewis Brandeis' advice:

"Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most effective policeman."

Very truly yours,

Paul Loveday

Paul Loveday

Californians for Smoking and
No Smoking Sections

by Paul Loveday
Chairman

J. A. 41

Exhibit D-1

THE NEW YORK TIMES, THURSDAY, MARCH 13, 1975

Californians Will Vote on Whether to Restrict Smoking in Public

C11

By GLADWIN HILL

Los Angeles

CALIFORNIA may become the first state to restrict smoking in indoor public places and a number of other locales through voter action.

Frustrated by legislative reverses, nonsmokers for smoking restrictions have filed with the Secretary of State initiative petitions bearing more than 1,000 signatures—about twice the number needed to qualify their proposal for the November election ballot.

The tobacco industry is mounting a large-scale campaign to defeat the measure, contending that it is an encroachment on personal liberties and would be inordinately expensive to implement.

On the ground that "smoking in enclosed areas is detrimental to nonsmokers' health, welfare, comfort and environment," the proposed statute would make it illegal to smoke "in any enclosed public place, enclosed place of employment, enclosed educational facility and in any enclosed health facility." Offenders would be subject to a $50 fine for each violation.

Exempted from the ban would be saloons, tobacco shops, privately rented hotel facilities, gambling and billiard halls, and auditoriums staging professional sports events and rock music concerts.

Partly exempted would be lobbies of public places and lounges where the management provided a partitioned smoking area covering no more than 50 percent of the space. Restaurants would have no-smoking areas of sizes discretionary with the management.

Recent surveys indicate that about 40 percent of the national population smokes.

Some 30 states, and many cities, have laws of some sort restricting smoking, but only two states, Minnesota and Utah, are believed to have statutes nearly as comprehensive as the one proposed here. In both cases they were instituted through the regular legislative process.

The California initiative campaign is being conducted jointly by the Group Against Smoking Pollution (GASP) in northern California and Californians for Clean Indoor Air in southern California.

GASP is headed by two San Francisco lawyers, Paul Loveday and Peter Hanauer. The southern California campaign is headed by a Los Angeles lawyer, Edward Tobash.

The clean indoor air committee's honorary chairman is Dr. Linus Pauling, the Nobel Prize scientist, and the campaign also lists as a supporter Dr. Glenn Seaborg, former chairman of the Atomic Energy Commission.

The two groups raised and spent about $40,000 on the 150-day petition campaign and estimate that $500,000 to $1 million will be needed in the coming election campaign.

Opponents of the proposal have held their fire until now. But they have set up a campaign committee, Californians for Common Sense, and engaged a San Francisco political management concern, Woodward & McDowell, which acknowledges that its principal sponsor is tobacco manufacturers.

The Tobacco Institute, based in Washington, D.C., the industry's primary trade association and spokesman in the current controversy over smoking, professed to have no direct knowledge or part in the anti-initiative effort.

"It's going to be a David-and-Goliath type campaign," Mr. Loveday of GASP predicted. "The tobacco industry is all based on advertising, and it's prepared to spend millions. We're going to have to rely on talent and volunteers."

Apart from interpersonal annoyances and hazards of smoking, Mr. Loveday said, experience of business operations where smoking was segregated had indicated increased productivity and reduced absenteeism from respiratory ailments.

Woodward & McDowell's initial move is the current circulation of an "information" kit to news organizations describing objections of the proposed law.

"An economic impact survey found that the initial cost to businesses of complying with this law would be upward of $200 million," Jack McDowell said.

"It would put big companies in high-rise buildings in a bind," he said. "They'd have to partition every floor in illogical ways: You can't segregate smoking and nonsmoking employees on different floors with disregard for normal operating arrangements. And how can you partition coin laundries, barbershops or bowling alleys?

"There's weird inconsistency in the proposal," he continued. "If an arena had a professional sports event, you could smoke. But if you went to the arena the next night and there was an amateur contest, you couldn't."

JA 41A

...MITTEE CAMPAIGN STATEMEN...

(Government Code Section 84200–84216)

C $3929

Exhibit D-1a

For use by: (1) persons who have made expenditures or contributions totaling $2,000 or more in a calendar year directly to or at the behest of a candidate, officeholder or committee; or, (2) persons who have made independent expenditures on behalf of a candidate, officeholder or ballot measure in the amount of $500 or more.

FOR OFFICIAL USE ONLY

...3 43 PM '78

REGISTRAR OF VOTERS

BY _____ DEPUTY

(Type or Print in Ink)

Statement covers period Inception* through 3/10/78

Tobacco Institute

...CCO INSTITUTE

ADDRESS: NO. AND STREET	CITY	STATE	ZIP CODE	AREA CODE PHONE
...Street, N. W.	Washington, D. C.		20006	(202) 457-4800

...SURER:
Nielsen, Jr.

ADDRESS OF TREASURER: NO. AND STREET	CITY	STATE	ZIP CODE	AREA CODE PHONE
...500, One Maritime Plaza	San Francisco,	CA	94111	(415) 362-1940

ELECTION (Circle one if applicable):	CIRCLE IF APPLICABLE:	DATE OF ELECTION (MO. DAY YR.):	TOTAL PAC
...y (General) Special Recall	semiannual election statement	11/7/78	2

...t post qualification

...DITURES AND CONTRIBUTIONS MADE TO: (Amounts may be rounded off to whole dollars)

FULL NAME AND ADDRESS	DESCRIPTION OF EXPENDITURE OR CONTRIBUTION MADE	NAME OF CANDIDATE & OFFICE OR NAME OF BALLOT MEASURE & BALLOT NUMBER OR LETTER (Circle One)	Sup port	Opp ose	AMOUNT THIS PERIOD	CUMULATIVE AMOUNT
Woodward & McDowell 22 Battery Street, Suite 404 San Francisco, CA 94111	Fees	Clean Indoor Air Act		X	27,000	27,000
"	Reimbursement for expenses	"		X	4,026	4,026
Dobbs & Nielsen One Maritime Plaza, St. 2500 San Francisco, CA 94111	Research by: Economic Research Assoc., 680 Beach St., S.F., CA 94109	"		X	24,400	24,400
Dobbs & Nielsen One Maritime Plaza, Ste. 2500 San Francisco, CA 94111	Legal fees	"		X	4,897	4,897
"	Costs	"		X	640	640
John D. Kelly The Tobacco Institute 1776 K Street, N.W. Washington, D.C. 20006	Reimbursement for travel expenses (meals, lodging, airfare, etc.)	"		X	705	705

...nal information on supplementary itemized continuation sheet.

...ber, 1977 SUBTOTAL (Carry with any additional subtotals to Line 1, Part V) S 61,668

...JA 43

...xpenditure was made to a committee, list the committee's ... Number (or the full name and street address of the treasurer).

YOU MUST COMPLETE THE SUMMARY AND VERIFICATION ON PAGE 2

...ID IE IF 1

Exhibit D-2

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

DEPARTMENT NUMBER ONE HON. ROTHWELL G. MASON, JUDGE

---oOo---

CAMPAIGN FOR CLEAN INDOOR AIR, an unincorporated association; PAUL LOVEDAY; EDDIE TABASH; PETER HANAUER; SUSAN KENNEDY; and JAMES WHITE,

Petitioners,

vs.

MARCH FONG EU, SECRETARY OF STATE,

Respondent,

CALIFORNIANS FOR COMMON SENSE, a nonprofit corporation; HOUSTON I. FLOURNOY; KATHERINE DUNLAP; PETER J. PITCHESS; and VINCENT TOOLAN, State Printer,

No: 275588

See page 5 & 6

---oOo---

FRIDAY, AUGUST 11, 1978

---oOo---

REPORTER'S EXCERPT TRANSCRIPT

TESTIMONY OF

VIRGO G. NIELSEN, JR.

---oOo---

APPEARANCES:

For Petitioners: ROGER JON DIAMOND, Esq., 15415 Sunset Boulevard Pacific Palisades, California

For Respondents: VIRGO G. NIELSEN, Esq., Suite 2500, The Alcoa Bldg. 1 Maritime Plaza San Francisco, California

* * *

Reported by: STEPHEN M. ROCHE, CSR #3429

OFFICIAL COURT REPORTERS SACRAMENTO COUNTY COURTHOUSE SACRAMENTO, CALIFORNIA 95814

FRIDAY, AUGUST 11, 1978

---oOo---

The matter of the Campaign For Clean Indoor Air, et al., Petitioners, versus March Fong Eu, Secretary of State, et al., Respondent, Number 275588, commenced on this day before Honorable Rothwell G. Mason, Judge of the Superior Court, in and for the County of Sacramento, State of California, sitting in the said Superior Court, in Department One thereof.

The said Petitioners were represented by Roger Jon Diamond, Esq., acting as their counsel.

The said Respondents were represented by Vigo G. Nielsen, Jr., Esq., acting as their counsel.

The following partial proceedings were had, to wit:

MR. DIAMOND: He does have two other attorneys here to represent him, and -- Mr. Hodgson and --

WITNESS: Mr. Hodgson, would you like to represent us in my absence, please?

THE COURT: Will you take a seat, please?

He is being called under 776 of the Evidence Code.

THE CLERK: Do you solemnly swear that the testimony you are about to give shall be the truth, so help you God?

WITNESS: Yes, I do.

THE CLERK: Please state your full name.

WITNESS: Vigo G. Nielsen, Jr., a resident of Marin County, California.

TESTIMONY OF

VIGO G. NIELSEN, JR., witness called on behalf of the Petitioners herein:

DIRECT EXAMINATION

By ROGER JON DIAMOND, Esq., Counsel on behalf of the Petitioners herein:

Q Mr. Nielsen, were you retained by the petitioners in this action to file a lawsuit on their behalf?

A I was retained by a -- Californians For Common Sense to file an action on behalf of the three authors.

Q So Dunlap, Flournoy, and Pitchess have not retained your firm to represent them in this action?

A Other than in their official capacity as opponent signatories -- I don't understand your question.

Q Californians For Common Sense and not the three petitioners have retained you -- or has retained your firm to file the lawsuit; correct?

A The Election Code requires that persons submitting an argument shall do it as an organization and for the -- that organization submit not more than three human beings to appear as the authors in the official ballot pamphlet.

Californians For Common Sense submitted the argument and rebuttal and had three human beings serve as their authors just as your campaign did and your three authors did.

Q Now, yes or no, Dunlap, Flournoy, Pitchess -- did they retain you to file a lawsuit for them? Yes or no?

A Individually, separate from their individual capacity within the context of being signatories, no.

As being representatives of Californians For Common Sense, yes.

Q Are they paying you anything to represent them in this

action?

A Separate from Californians For Common Sense, no.

Q Okay. The study that you refer to, this economic study -- who did that study?

A I believe it's done by an organization called Economic Research Associates.

Q And where are they based?

A According to the campaign report, San Francisco.

Q And when was that firm retained to prepare the study?

A I do not know. I am the attorney for the committee. I am not the campaign management firm. I am not the person that makes those decisions. I represent the committee, Mr. Diamond.

Q You have no information at all upon which to make a decision or an estimate as to when approximately the firm was retained?

A The firm had to be retained after -- whatever -- it was October, 1977, since there was no organization to retain it, it was retained sometime before the statement to Your Honor's Payment List, because they would have probably been paid either a progress payment or at the completion of their study.

Q And when were they paid for their study?

A Between May 10, 1977 and June 30 -- excuse me -- 1978 and June 30, 1978.

Q And how much was that firm paid for the study?

WITNESS: If your Honor would let me see that statement. They were paid at least $3000.00.

THE COURT: Would I interpret -- you made a previous and similar report from earlier reporting, but you don't have that

here today or don't know if there was any additional payment?

WITNESS: Correct. The law requires that both sides file a report in mid-May going through the 10th of May -- or is it March 10th of -- March, that report was filed, and that would have all previous income and expenditures.

THE COURT: So our record is correct, you said May 8, May 10 a while ago. You probably meant March 10?

WITNESS: I stand corrected. It was between March 10, 1978, Mr. Diamond, and June 30, 1978, in which the $3000.00 payment was made.

Q [MR. DIAMOND] And when was the study completed?

A I have no idea.

I assume during that same period. It was made -- it was completed prior to the submission of the opponent's official argument.

Q You mentioned --

THE COURT: Prior to the submission --

WITNESS: -- of the opponent's --

THE COURT: -- opponent's being --

WITNESS: The Californians For Common Sense submitted a statement based on a research document. The research document I believe, must have been in existence by that time, or they could not have quoted it.

Q How did Californians For Common Sense get started?

A I am not sure I am aware.

Q All right. Did you participate in the drafting of their articles of incorporation?

A Yes, I drafted them.

Q All right. And who retained you to draft the articles of incorporation for Californians For Common Sense?

A The organization that I was about to form.

Q And who were those individuals?

A Who was the single person that made the phone call, or who was the person who said they will be the committee?

Q Both.

A Mr. Diamond, our firm practices a specialty in Prop 9 law. We represented the "Yes on 3," "Yes on 10," "No on 13" committee.

We represent a number of ballot measure committees. We get called for our expertise and are asked to create campaign committees.

Q Who contacted your office?

A I don't remember.

Someone who was going to be part of the "No on Proposition 5" campaign.

Q Do you know whether they are represented or in any way are associated with the tobacco industry?

A If I could remember who it is, I could answer, but since I can't remember who it is, I don't know.

Q You mentioned this was your client, that one who hired you to form the corporation.

A We're -- we're contacted regularly by people that say, "We would like to form a campaign committee and engender support or opposition to a measure."

Q Okay. And who contacted you?

A I do not remember. Somebody that was -- is presently part

Exhibit D-3

DECLARATION OF PAUL LOVEDAY

I, Paul Loveday, declare

1. I am an attorney licensed to practice law in all the courts of the State of California. My business address is Two Embarcadero Center, San Francisco, California 94111.

   I know of my own knowledge that the facts contained in this Declaration are true and would be willing to so testify under oath if called upon to do so.

2. I was a supporter of Proposition 5 and as such I matched wits against John Greenagel in television debates four times during the 1978 campaign on Proposition 5. In the first two debates John Greenagel represented that:

   a. he was opposing Proposition 5 merely because he as a small businessman felt that Proposition 5 would harm small businessmen;
   b. he was a volunteer and was not being paid for speaking against Proposition 5; and
   c. he had no affiliation or connection whatsoever with the tobacco industry.

3. In a debate in Fresno only a few days before election day, John Greenagel did admit he was being paid for his appearances, but vehemently denied any affiliation or connection whatsoever with the tobacco industry.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 16, 1980.

Paul Loveday

Paul Loveday

SCHEDULE E-2 Californians for Common Sense

Exhibit D-4

NAME AND ADDRESS	DESCRIPTION OF PAYMENT	PERIOD AMOUNT
LILIAN BAILEY of Telegraph Hill Blvd. San Francisco, CA 94133	PROFESSIONAL SERVICES	120.00
WESTERN INTERNATIONAL MEDIA 732 Sunset Boulevard Los Angeles, CA 90069	RADIO - SEE ATTACHMENT REPORT FILED BY WESTERN INTERNATIONAL MEDIA	110000.00
BEN GREENAGEL Dockey, Greenagel & Peterson, Inc. 485 Washington Street San Francisco, CA 94111	PROFESSIONAL SERVICES	750.00
LETTERS BY IRMA 82 Battery Street Suite 814 San Francisco, CA 94111	OFFICE SUPPLIES	972.88
HILTON MEYER & CO One California Street San Francisco, CA 94111	RENT	840.00
OVIATT ASSOCIATES Attention Wayne Ratkovich Associates 617 South Olive Street Los Angeles, CA 90014	RENT	600.00
LAURA D. HALL 5151 West Century Blvd., Suite 614 Los Angeles, CA 90045	FIELD STAFF	1000.00
BROOKS CAMERA SHOP 45 Kearny San Francisco, CA paid by KATHLEEN L. REYNOLDS 2049 Hyde Street San Francisco, CA 94109	STAFF & REIMBURSED EXPENSES	18.58
NUMBER OF EXPENDITURES THIS PAGE: 8	SUBTOTAL:	114301.46

Exhibit D-4

NAME AND ADDRESS	DESCRIPTION OF PAYMENT	PERIOD AMOUNT
BEST RENTS FURNITURE 550 South Hapel Avenue Montebello, CA 90640	FURNITURE AND EQUIPMENT RENTAL	296.40
JOHN GREENAGEL Hockey, Greenagel & Peterson, Inc. 345 Washington Street San Francisco, CA 94111	REIMBURSED EXPENSES PROFESSIONAL SERVICES	2297.14*
SANDRA KATSAMPES C/O Californians' for Common Sense 5151 West Century Blvd., Suite 614 Los Angeles, CA 90045	CAMPAIGN PROGRAMS	40.00
ELEGANT FARMER Jack London Square Oakland, CA paid by JACK S. MCDOWELL c/o Woodward & McDowell 22 Battery Street San Francisco, CA 94111	REIMBURSED EXPENSES	18.35
HYATT HOUSE HOTEL (LAX) Los Angeles Airport 6225 West Century Boulevard Los Angeles,, CA 95602 paid by JACK S. MCDOWELL c/o Woodward & McDowell 22 Battery Street San Francisco, CA 94111	REIMBURSED EXPENSES	24.98
HYATT REGENCY HOTEL (SF) Convention Sales Five Embarcadero San Francisco, CA 94111 paid by JACK S. MCDOWELL c/o Woodward & McDowell 22 Battery Street San Francisco, CA 94111	REIMBURSED EXPENSES	151.04
NUMBER OF EXPENDITURES THIS PAGE: 6	SUBTOTAL:	2827.91

*No additional payee in excess of $50.

NAME AND ADDRESS	DESCRIPTION OF PAYMENT	PERIOD AMOUNT
OHN GREENAGEL ockey, Greenagel & Peterson, Inc. 45 Washington Street an Francisco, CA 94111	PROFESSIONAL SERVICES	1500.00
IRPORTER COACH (SFO - SF) paid by AN GREENAGEL ockey, Greenagel & Peterson, Inc. 45 Washington Street an Francisco, CA 94111	STAFF & REIMBURSED EXPENSES	1.65
AN GREENAGEL ockey, Greenagel & Peterson, Inc. 45 Washington Street an Francisco, CA 94111	STAFF & REIMBURSED EXPENSES *	143.35
ITRICK & COMPANY .O. Box 7831 an Francisco, CA 94120	OFFICE SUPPLIES	5.64
AN FRANCISCO AIRPORT HILTON O. Box 8355 nternational Airport an Francisco, CA 94128	CAMPAIGN PROGRAMS	64.59
PARKIES DELIVERY SERVICE 4 Clementina Street an Francisco, CA 94103	OFFICE SUPPLIES	5.00
ATHIS TRAVEL 2 Battery Street n Francisco, CA 94111	TRAVEL	603.86
UDIO VIDEO REPORTING SERVICE (SF) .O. Box 31517 an Francisco, CA 94131	OFFICE SUPPLIES	290.00

NUMBER OF EXPENDITURES THIS PAGE: 8 SUBTOTAL: 2614.09

*No additional payee in excess of $50.

Exhibit G

LECTION '80: CAMPAIGNS COMPETE FOR CCESS TO THE AIRWAVES

by Dale Kasmey—The political season is upon and radio-television operators, facing a certain biennial frustration, respond as if it's upon them on shore. "The politicians grind us on hard as or worse than any skewed ad agency person," grumps Russell Wood, local station manager at KSL Radio in Salt Lake City. "But they usually aren't knowledgeable about how to use our business. This compounds the additional work we do."

Broadcasters agree that here—if in few other areas of political advertising—bureaucratic harassment is a business disease. Lawyers in new, anxious interpret relatively unscientific guidelines to suit themselves. As a result, every election produces legal squalls on over seams to the airwaves.

Tiptoeing through a minefield of commercial clutter and demands for air time at discounted prices, stations must wrestle with forms, forms, forms. David McGahey, an account executive at KNBR in San Francisco, weighs the station attorney's pound of flesh. "There's an inquiry form if someone calls up and just asks about political time. Then there's the disclaimer form so the station doesn't get sued if something is said that isn't true. Then there's the form filled out by the candidate or the candidate's representative. Then they have to be listed on the pro-

Dale Kasmey is a Sacramento-based media analyst.

gram log by party. And it all has to go into our file for public inspection."

Called "politicals" in station jargon, campaign spot announcements represent a significant drain on broadcasters' time (on and off the air), all the while affecting revenues. The basic guidelines direct stations to provide air time "at the lowest unit charge." A major advertiser for instance, may sign a fifty-two-week contract in January, resulting in a very favorable cost-per-spot, that is, unit rate. At primary time the following June or September, that favorable rate can set the floor for politicals.

"When you're sitting in a sold-out position, you then lose top-of-the-card [highest paying] advertisers because you have filled all your inventory with the lowest unit rate," says Clifford Levine, general sales manager at KABC in Los Angeles. "If you're sold out, including eighty-dollar politicals, and you have to decline regular advertisers at regular rates, you lose bucks."

Despite the carping about politicals, there's a silver (or green) lining to the story. Stations whose schedules are not sold-out before election day can politicals at bonus-rate seasons. "I know some stations here in town," says Wood from Salt Lake City, "that go looking for politicals. They figure it's just gravy. If they're not normally sold-out, business at the low end of the rate card is better than no business at all."

Besides, stations usually work some sweetie ahead when planning an election-time rate card. According to Bill Bradley, general sales manager at KRTV in Sacramento, the rates tend to slide up because "there's just not as much time available."

Admitted that "you can't add pages to the log" (and, hence, hours to the day), stations often restrict the number of spots any candidate may have. DonDee Verbrick, an executive sales secretary who also fields politicals at KOY Radio in Phoenix, explains that "the limit is one spot per 'daypart' per day."

KPNX-TV, NBC's affiliate in Phoenix, has another approach: show the politicians little mercy. General Sales Manager Jeffrey Morris says, "Politicals are not given preferential treatment as to whether they stay or go with a program. It depends upon the date they ordered the show—first in, last out."

Some stations offer two rates, preemptible and nonpreemptible—a practice that draws dark remarks from competitors ("They can't do that!"). KCRA-TV in Sacramento even has a three-tier political rate: preemptible, preemptible but unlikely and nonpreemptible. Still, the majority agrees with one TV sales manager that "politicals can't afford to buy something and then have it preempted."

Most broadcasters interpret the rules to mean that politicals must be aired. Consequently, the opening of political season (forty-five days before the primary, sixty days before the general election), creates a demand that forces juggling of existing sponsors. "We haven't had any problem where they had to be taken off the air completely," says Verbrick of KOY. "We've had to move them around some. I'm sure they don't like it, and I don't blame them a bit."

The instructions for this political dance are engraved in the U. S. Communications Act. For years, broadcasters have fumed over the act's vagaries regulating political broadcasts. The law specifically does not require stations to sell time to any candidate, but if one gets in, all other candidates for that office also must get "equal opportunities."

Technically, the "equal opportunities" rule applies only to federal candidates but most stations extend it to all offices. A notable exception is KPNX where, Jeffrey Morris says, "We take only statewide and federal candidates. We do not take city or municipal offices. That way, we limit quite a bit of the political commercial clutter."

The clutter is further complicated by the addition of ballot propositions. For them it's not "equal opportunities" but it can mean "equal [free] time," a rule which also inflames industry tempers. Called "the Fairness Doctrine," Commission ruling is, gives more to controversial issues than to candidates. It is the root of bitter complaints that there are two First Amendments: one for print media and an inferior one for radio and television.

Since these issues—political campaigns and ideas—are closely intertwined, some stations don cloaks of self-ascribed impartiality. KABC Radio in Los Angeles, for instance, insists that both sides of a ballot issue be on the air at the same time. If the station doesn't have both sides, it refuses to accept either.

But the eyes of many salespeople glitter with a fervency least when contemplating the revenues from initiative campaigns. The war chests are usually fat and, at those stations, spenders must pay full-card rate.

Yet, ever wary of the minefield, stations often bend low in the wind to avoid even a whiff of impropriety about politicals. David McGahey at KNBR cites his days at competing KFOG as an example. "We were owned by General Electric. About two years ago we had the nuclear initiative. G.E. has an enormous financial stake in the nuclear industry. At first we decided not to carry any nuclear initiative. In the end we actually ran three announcements for the anti-nuclear side so that G.E. wouldn't appear to be the big guy using its own media to beat up the little guys.

"However, General Electric sent people around to the station. We all had to sit down and get a lecture on nuclear waste and things like that. They said, 'We want you to know what this issue is.' They showed us pieces of material that they [store] nuclear waste in."

Adding to the confusion is the question of agency commissions. Many stations construe "low-cost unit rate" to mean lowest minus 15 percent, whether a candidate has an advertising agency or not. In San Francisco, McGahey recalls, "a guy came to me for the Committee to Tax the Corporations. I think he spent a couple of thousand dollars. I went to the manager and said, 'I really think the guy is entitled to a discount.' He said okay.

"So I called the guy and told him, 'It's $1,800 but it's really $850 because you're entitled to the discount. It's not really a rate but I suggest you bring it up with any other stations.'

"The guy called me back and said nobody mentioned to him that he might be entitled to it, but when he brought it up nobody gave him any gas."

What with all the turmoil, stations don't rush out to sell politicals. One San Francisco Bay Area TV sales manager sniffed, "Political advertising almost always falls during the major advertising period of the year. Politicals are sold below our normal rate, so who needs it?"

Whatever else may be true, the First Commandment of political advertising is, in McGahey's words, "rush in advance on everything. Once the election's over, all the organizations disband and disappear; there's no one to collect from. You only get it if the guys wins."

Grumbling and problems aside, some stations do see a higher purpose in political advertising. At KABC Talk Radio, which normally sells politicals at a price below the lowest rate, Clifford Levine insists, "We're very concerned with public opinion; it's almost like the last open forum of the air. We have an obligation to the community that these people be heard."

On occasion it turns out to be good programming, too. "The program director is very upright about politicals," observes Russell Wood, "because it really cost into programming. About four or five years ago, one of the best rating books we ever had was during political season. We look back and shake our heads because, according to every theory there is, that shouldn't have occurred."

Marvin Field, head of Field Research Institute in San Francisco and conductor of the California Poll, illustrates some of the effects of political advertising. "One good example of how the advertising campaign expenditure affected the vote was two years ago with the antismoking initiative. Basically, the public really wanted to put some restrictions on smokers. But the tobacco industry spent over $6 million in a very heavy advertising campaign and was able to convert a 'Yes' vote to a 'No' vote."

Hot, the pollster points out, "you can have instances where advertising is counterproductive. There have been many number of cases where candidates have spent a lot of money and have gotten an image. Then the public looks at the image and really doesn't like it. John Connally, for example, got well-known and got a lot of publicity, and the public voted him down.

"Another negative aspect to disproportionately heavy advertising is that it becomes an issue in itself. For example, with Proposition 5, the fact that the tobacco industry was spending as much money as it was to defeat it, became an issue. There was sort of a counter trend in the closing days of the campaign." Field recalls. "If the tobacco industry had spent a couple more million dollars, it might have lost the election." ■

J. A. 55

The tobacco industry: How it snuffed out Proposition 5

By GRACE-MARIE ARNETT
Copley News Service

WASHINGTON — The tobacco industry has disclosed its recipe for defeating the anti-smoking initiative in California.

First, take the battleground and shift it to your advantage. Add union support, and pour in big bucks. Stir public awareness vigorously, and spice with a dash of humor.

Ed Grefe, vice president for public affairs of Phillip Morris, shared the winning recipe with members of the American Association of Political Consultants, meeting here recently to trade advertising secrets and successful campaign techniques.

The tobacco industry began its $4 million campaign — the most expensive in California history — by gathering extensive survey data.

"We found this was a low-intensity issue, but that everyone had an opinion on secondhand smoke," said Richard Woodward, a manager of the "anti-five" campaign.

Proposition 5 would have banned smoking in most public places and would have required smoking and non-smoking areas to be partitioned.

The tobacco industry began mapping its campaign.

The goal: raise public awareness on Prop. 5 to 70 percent.

The strategy: take advantage of the post-Prop. 13 environment and the language of the anti-smoking initiative to form the basis for a campaign to defeat the referendum.

The technique: shift the battleground. "This was not an issue between smokers and non-smokers," Grefe said. "But it went to the heart of how much government involvement we want in our lives.

"When we shifted the battleground from smoking to government involvement, we were able to use the Prop. 13 environment to our advantage."

The advertising: the industry separated its advertising campaign into three phases. "Find the enemy, focus on the regulators and read the fine print," said Hal Larson, another campaign strategist for the industry.

"In phase one, we had to show the enemy was no' smoke but government intervention in our lives. We used the catch phrase, 'They're at it again,' to bring this home to voters," Larson said.

"In phase two, we focused on the danger of regulation. We were asking the voters to think what the government will try to regulate next. 'Today it's smoking; tomorrow will it be a free press?'"

"We already have enough unnecessary laws," one ad said.

Finally, the ads focused on the wording of the initiative itself in an effort to show it was discriminatory, asking voters to read the fine print. A boss can smoke in his private office, but his secretary in the typing pool could be fined $50 for smoking in the common area. A black woman asks the television viewer, "Can you tell me this isn't discriminatory?" "It's tough enough being a secretary without this," another ad says.

In conducting public opinion surveys, the industry found that although virtually everyone had an opinion on secondhand smoke, those emotions were not strongly held. "Knowing this, we decided not to take the campaign too seriously," Larson said.

One radio ad carried the effects of Prop. 5 to a barber shop where one chair would have to be walled off for smokers. "Whoever heard of a barber shop duet?" "Stupid," the quarter chimes.

The intensive media campaign raised public awareness of Prop. 5 well above the 70 percent goal to nearly 90 percent, and eventually defeated the initiative by 700,000 votes out of 8.7 million cast.

Grefe said alliance is solidifying between management and labor on such issues as smoking ordinaces and nuclear power disputes.

"Union lobbyists have more in common with corporate lobbyists (jobs and profits) than with public interest and consumer groups," Grefe said, 'and I expect to see more and more corporate-labor alliances.

"We could not have won on 5 in California without union support," he added.

Ukiah, CA
(Mendocino Co)
Journal.
(Cir. 6xW. 8,350)

J. A. 56

EXHIBIT N

United States
TOBACCO JOURNAL
Reg. U.S. Patent Office
Established 1881 by Oscar Hammerstein I
Irving S. Obrin, President 1963-77

IRWIN BREITMAN
Publisher

IRV BARRON
Associate Publisher

GERARD P. SULLIVAN
Editor

DAVID SCHIFF
Associate Editor

DAVID S. CHARTOCK
Contributing Editor

JOANNE GOLDSTEIN
Assistant to Publisher

•

HEDY HALPERT
Director of Sales

SID N. COTTIN
Advertising Manager

DONNA KALAJIAN
Advertising Representative

CURT BROWN
Midwest Advertising Manager
(312) 944-2206

•

HARRY N. TRAUGOTT
President

Published bi-weekly. Second-class postage paid at New York, N.Y., and at additional mailing offices.
Issue 3776 of Vol. [illegible] of United States Tobacco Journal.
Annual subscription rates: United States $30; Canada and Latin America $45; all other foreign countries $65 payable in advance with a bank draft drawn on a U.S. bank or U.S. Postal Money Order. No foreign postage rates prepaid may be added.
Address all business and editorial communications to:
UNITED STATES TOBACCO JOURNAL
254 West 31 Street
New York, N.Y. 10001
Tel: (212) 564-4320

Also publishers of Confectionery Trade News, Tobacconist Industry Weekly and Smokeshop

CORRESPONDENTS

Northeast: K. Budzinski, J.C. Carpe, B. Kalet, P. Knight, P. Lance, M. Ondenker, A. Pastore, M. Rothman, A. Widem.
Southeast: R. Brown, M. Clayton, M. Hall, C. Handley, J. Handy, D. Moore.
Midwest: J. Bernstein, S. Fucini, M. Gussow, G. Lowry.
Southwest: M. Bernstein, W. Hall, B. Irwin.
West: D. Acklin, T. Fair, P. Keene, K. MacDonald.

EDITORIAL

The Antibacs' Proposition

The cigarette industry can breathe a sigh of relief now that the vote is in on California's Proposition Five – the initiative launched by the Group Against Smoking Pollution (GASP) and other anti-tobacco organizations. The people of the Golden State voted 2.5 million to 2.1 million against the proposal to restrict smoking in certain public and private places. But, while the industry can breathe that sigh of relief, it is very much aware that it cannot relax its guard. A very important battle has been won, but the war's still on.

The backers of the so-called California Clean Indoor Air Act may be disappointed with their failure to achieve their Election Day objective, but there's no reason to suspect that they'll abandon or lessen their crusade. Not when the margin of their defeat was so narrow. They'll be back "propositioning" the electorate – if, in fact, they've ever stopped.

Right now, the "gaspers" are most likely analyzing every aspect of their effort – to determine what concessions they have to give in order to make their desired smoking restraints palatable to more Californians. Only a relatively small percentage of the electorate has to be won over to tip the scales the other way. Perhaps all that is required is to remove from their next proposition the ban on smoking in bowling alleys, barber shops and beauty parlors. Or maybe the antibacs only have to say it will be okay to smoke at jazz concerts as well as at rock concerts, or that it will be all right to smoke at amateur boxing and wrestling matches as well as at professional bouts.

What we're saying is that California's voters did not kill the anti-smoking monster on Election Day; they simply stunned him – and that he'll recuperate quickly, develop a modified strategy and attack anew; perhaps with greater force.

The entire tobacco industry – grower, manufacturer, wholesaler and retailer – has an important stake in what's going on in California. What happens in the nation's most populous state – a state which, incidentally, accounts for more than nine per cent of the nation's cigarette consumption – impacts nationally. The nation, as was so impressively demonstrated by the aftermath of Proposition Thirteen – follows California's lead. So, while the defeat of Proposition Five was a victory for the California tobacco trade and the cigarette manufacturers, it was also a victory for everyone in the tobacco business in this country. And, by the same token, if the antibacs are successful with their next initiative in California, it will be a defeat for everyone in the tobacco business.

It would not be inappropriate in the least if everyone in the industry took a participatory interest in the defeat of California's future Proposition Fives.

Quotable Quote:

"If we really want to manage the future, then let's encourage others to join us – shareholders, employees and customers – toward helping America gain its image as the world's best example of both economic and individual freedom.

"Today will rush into tomorrow anyway, but with input from each of us, it can be a better tomorrow – better for us, better for our employees, better for government, and better for the disadvantaged everywhere."

Harry K. Wells, chairman and president
McCormick & Co.

Boardroom

Thieves of executive time

If you're like most managers, you don't really know where your day goes. And if you tried to list the reasons why you fall behind in your work, you'd probably be writing down the wrong things. Time-management expert R. Alec Mackenzie tells how to get more done.

Most important: Don't blame outside factors. Instead, blame your own inability to control them.

The real time wasters:

- Attempting too much at once.
- Unrealistic time estimates.
- Procrastinating.
- Not listening.
- Not saying "no."
- Doing instead of delegating.
- Personal disorganization.
- Delegating responsibility without authority.
- Snap decisions.

A system that Mackenzie suggests:

Daily time log (but not the way most people keep them). *Common mistakes:* (1) Filling in sheet at end of day when memory can play tricks. (2) Listing what was done without analyzing time spent in terms of work accomplished. (3) Using log as record of achievement instead of self-improvement tool.

Right way: Enter everything done as soon as you stop even for a brief interruption. Allow room on sheet for comment on things done unnecessarily, work that could have been left to subordinates, things done poorly through lack of preparation, time spent on daydreaming, jobs that took more or less time than expected.

"Advance" time log. Spend the last 20 minutes of day filling in a sheet for tomorrow. What you plan to do. How long it should take. *Then compare what actually happens when tomorrow comes.* How much of plan you can follow. What goes wrong with the rest. Identify your own "thieves of time," then make daily plans you can stick to. (Don't skip this step just because tomorrow won't be a "typical" day. Most managers waste time in the same ways every day.)

Fighting absenteeism

Consider trying some of these ways to improve employee attendance:

- Insist that worker talk to supervisor when calling in sick. Don't permit leaving messages with co-worker or secretary.
- One minute after starting time, have supervisor collect and hold all time cards that aren't punched yet, so the late worker can't avoid confronting his boss.
- When a worker is hired, tell him attendance is the first thing you look at when it's rare time.

J.A. 57

Exhibit R-1

A STUDY OF PUBLIC ATTITUDES TOWARD CIGARETTE SMOKING AND THE TOBACCO INDUSTRY IN 1978

VOLUME I

MAY 1978

0000335

THE ROPER ORGANIZATION INC

PM RECD 790406 QRH

J.A. 58

INTRODUCTION

This is the sixth biennial national opinion survey we have conducted for The Tobacco Institute. Like all its predecessors it deals with public attitudes towards the smoking and health issue and attitudes towards both the tobacco industry and government regulation of it. In the more recent surveys in the series, a second focus of the studies has been on the passive smoking/non-smoker's rights issue.

This survey updates all major trend areas and breaks significant new ground in the passive smoking/non-smoker's rights area.

A complete description of the survey methodology, sample size, interviewing dates, etc., as well as copies of the questionnaires used, may be found in the "Methodology" section following this "Analysis" section.

A STUDY OF PUBLIC ATTITUDES TOWARD CIGARETTE SMOKING AND THE TOBACCO INDUSTRY IN 1978

VOLUME I

Prepared for

THE TOBACCO INSTITUTE

May 1978

Copy No. 6

The ROPER ORGANIZATION Inc.

J.A. 60

HIGHLIGHTS OF THE STUDY

Approximately forty percent of this sixth study of public attitudes toward cigarette smoking consists of new questions which have never before been asked for The Tobacco Institute. For this reason alone, many of the research findings contained in this report are of special interest. The study also contains a systematic review of trend data for questions which have been asked in the past. Taken together, the large body of new material and the comprehensive view of changing attitudes over the last ten years highlight results that we consider to be of extraordinary importance to the industry.

Not all of these findings are encouraging. In fact, the major highlights of this report divide themselves into results which are sometimes promising but mostly foreboding as regards the very future of the tobacco industry. (To put it another way there are a certain number of "silver linings" to the many "clouds.") For this reason, we have decided to present the highlights of this report in the form of a balance sheet, measuring the optimistic and pessimistic entries, as it were, on opposite sides of the ledger.

These balance sheet "entries" are presented without documentation in the interest of conciseness. They are, however, "audited" in the "Detailed Analysis" that follows.

"ASSETS"

1. The overall saliency of the "cigarette issue" is low. Compared to crime, drugs, pollution, and a half a dozen other items, smoking is at the bottom of the list of personal concerns.

2. There is little sentiment for a total ban on cigarette smoking in public places (but see #3 under "Liabilities").

3. There is overwhelming approval of placing notices outside places that restrict cigarette smoking.

"LIABILITIES"

1. More than nine out of every ten Americans believe that smoking is hazardous to a smoker's health.

2. A majority of Americans believes that it is probably hazardous to be around people who smoke even if they are not smoking themselves.

3. There is majority sentiment for separate smoking sections in all public places we asked about.

"ASSETS" (continued)

4. Few people favor job discrimination based on cigarette smoking.

5. The percentage of smokers in the 17 to 24 year old age group is up, and the amount smoked per day per young smoker is also up (but see #5 under "Liabilities").

6. There is broad support for FTC regulation of "public service" advertising sponsored by non-profit groups like the Cancer Society and Ralph Nader.

7. There is less than majority sentiment in favor of a graduated tar cigarette tax.

"LIABILITIES" (continued)

4. There is majority acceptance of the idea that the cigarette warning label should be made stronger and more specific.

5. The percentage of people who smoke cigarettes is at the lowest level measured in the past ten years.

6. A steadily increasing majority of Americans believes that the tobacco industry knows that the case against cigarettes is true.

7. Favorable attitudes toward the tobacco industry are at their lowest ebb.

8. There is widespread support for anti-smoking education in the schools--and at the very early years.

9. Two-thirds of smokers would like to give up smoking.

10. Nearly half the public thinks that smoking is an addiction.

11. More people say they would vote for than against a political candidate who takes a position favoring a ban on smoking in public places.

IMPLICATIONS OF THE FINDINGS

The original Surgeon General's report, followed by the first "hazard" warning on cigarette packages, the subsequent "danger" warning on packages, the removal of cigarette advertising from television and the inclusion of the danger warning in cigarette advertising were all "blows" of sorts for the tobacco industry. They were, however, blows that the cigarette industry could successfully weather because they were all directed against the smoker himself. While the overwhelming majority of the public has been convinced by the anti-smoking forces that smoking is dangerous to the smoker's health, this has not persuaded very many smokers to give up smoking.

The anti-smoking forces' latest tack, however--on the passive smoking issue--is another matter. What the smoker does to himself may be his business, but what the smoker does to the non-smoker is quite a different matter. The anti-smoking forces have not yet convinced anything like as many people that smoking harms the health of the non-smoker as they have convinced people that smoking harms the health of the smoker. But this study shows that they are well on the way to making the same sale about the effects of smoking on the non-smoker as they have already made with respect to the effects on the smoker. Nearly six out of ten believe that smoking is hazardous to the non-smoker's health, up sharply over the last four years. More than two-thirds of non-smokers believe it, nearly half of all smokers believe it.

This we see as the most dangerous development to the viability of the tobacco industry that has yet occurred. While there is little sentiment for an outright ban on smoking in public gathering places, there is already majority sentiment for providing separate facilities for smokers and non-smokers. As the anti-smoking forces succeed in their efforts to convince non-smokers that their health is at stake too, the pressure for segregated facilities will change from a ripple to a tide as we see it.

It is, of course, possible that once smokers and non-smokers alike experience all the inconveniences of separate facilities, people will become fed up

with the restrictions as they did with the Volstead Act. Smokers who want to dine, work or travel with non-smokers may become fed up with having to forego smoking. Non-smokers who want to dine, work or travel with smokers may become fed up with having to endure the extra smoke that exists in segregated smoking facilities. Both could say "to hell with it all" and go back to a smoking anywhere sentiment.

But if the anti-smoking forces are successful in convincing non-smokers that their health is in danger, it's at least as likely that the sentiment for segregated facilities will be strengthened. And if segregated facilities do not accomplish the anti-smoking forces' desire of making segregated smoking so untenable that smokers will give it up, the next step could be an outright ban. If non-smokers are by then convinced that it's their health that is at stake, the present sentiment for separate facilities could become support for a total ban.

The strategic and long run antidote to the passive smoking issue is, as we see it, developing and widely publicizing clear-cut, credible, medical evidence that passive smoking is not harmful to the non-smoker's health.

While that should be the fundamental objective of the tobacco industry in our opinion, this study suggests that there are some short term tactical approaches that may slow the efforts of the anti-smoking forces and buy the industry the necessary time to develop what we see as the fundamental evidence needed to reverse the trend. But they are tactical and short term in character. Among these short range tactics are the following:

1. Where outright bans on smoking are proposed and appear likely of passage, the industry could propose separate facilities (as the lesser of two evils).

2. Where New Jersey-type legislation appears to be a real possibility, the industry might propose that operators of restaurants, cabs and other public "institutions" be permitted to establish whatever smoking policy they desire--"Smoking permitted anywhere," "No smoking

permitted," "Separate facilities for smokers," or "Separate facilities for non-smokers"--but with the requirement that the smoking conditions that apply be posted outside the premises for the convenience and protection of smokers and non-smokers alike.

3. In view of the widespread public belief that public service advertising by non-profit organizations should be subject to the same FTC scrutiny as commercial advertising, we think it might be desirable to noisily file an action with the FTC the next time public service advertising misquotes the facts about smoking and health, and to further demand that the FTC require the offending organization to run "corrective" advertising as Listerine has been required to do.

4. While the public widely supports government programs to discourage cigarette smoking, a majority opposes spending tax dollars for such a program--which suggests such programs might be vulnerable if people were made aware of their costs.

5. Several questions in this study suggest that where there is substantial support for government action against cigarette smoking, there is a discernible decline of such support when people are made aware of the other government intrusions that might follow. "Where will it all end?" might be effective in blunting anti-smoking regulation.

6. Another short range tactic is suggested by the question concerning "fumaphobes." The findings suggest that there is the possibility of dividing those who are relatively unexcited about the passive smoking issue from the anti-smoking zealots, by portraying these zealots as people with an unreasonable fear of cigarette smoking.

* * * * *

But we would repeat that since the anti-smoking forces have now gone a long way in convincing the non-smoker that his health, too, is at stake, the number one

objective in our opinion is to develop authoritative and credible evidence with respect to the effects of passive smoking on the non-smoker's health. The issue, as we see it, is no longer what the smoker does to himself, but what he does to others.

IMPLICATIONS OF THE FINDI

The original Surgeon General's report, fol[illegible] the first "hazard" warning on cigarette packages, the subsequent "danger" wa[illegible]g on packages, the removal of cigarette advertising from television and the incl[illegible]ion of the danger warning in cigarette advertising were all "blows" of sorts for the tobacco industry. They were, however, blows that the cigarette industry could successfully weather because they were all directed against the smoker himself. While the overwhelming majority of the public has been convinced by the anti-smoking forces that smoking is dangerous to the smoker's health, this has not persuaded very many smokers to give up smoking.

The anti-smoking forces' latest tack, however--on the passive smoking issue--is another matter. What the smoker does to himself may be his business, but what the smoker does to the non-smoker is quite a different matter. The anti-smoking forces have not yet convinced anything like as many people that smoking harms the health of the non-smoker as they have convinced people that smoking harms the health of the smoker. But this study shows that they are well on the way to making the same sale about the effects of smoking on the non-smoker as they have already made with respect to the effects on the smoker. Nearly six out of ten believe that smoking is hazardous to the non-smoker's health, up sharply over the last four years. More than two-thirds of non-smokers believe it, nearly half of all smokers believe it.

This we see as the most dangerous development to the viability of the tobacco industry that has yet occurred. While there is little sentiment for an outright ban on smoking in public gathering places, there is already majority sentiment for providing separate facilities for smokers and non-smokers. As the anti-smoking forces succeed in their efforts to convince non-smokers that their health is at stake too, the pressure for segregated facilities will change from a ripple to a tide as we see it.

It is, of course, possible that once smokers and non-smokers alike experience all the inconveniences of separate facilities, people will become fed up

with the restrictions as they did with the Volstead Act. Smokers who want to dine, work or travel with non-smokers may become fed up with having to forego smoking. Non-smokers who want to dine, work or travel with smokers may become fed up with having to endure the extra smoke that exists in segregated smoking facilities. Both could say "to hell with it all" and go back to a smoking anywhere sentiment.

But if the anti-smoking forces are successful in convincing non-smokers that their health is in danger, it's at least as likely that the sentiment for segregated facilities will be strengthened. And if segregated facilities do not accomplish the anti-smoking forces' desire of making segregated smoking so untenable that smokers will give it up, the next step could be an outright ban. If non-smokers are by then convinced that it's their health that is at stake, the present sentiment for separate facilities could become support for a total ban.

The strategic and long run antidote to the passive smoking issue is, as we see it, developing and widely publicizing clear-cut, credible, medical evidence that passive smoking is not harmful to the non-smoker's health.

While that should be the fundamental objective of the tobacco industry in our opinion, this study suggests that there are some short term tactical approaches that may slow the efforts of the anti-smoking forces and buy the industry the necessary time to develop what we see as the fundamental evidence needed to reverse the trend. But they are tactical and short term in character. Among these short range tactics are the following:

1. Where outright bans on smoking are proposed and appear likely of passage, the industry could propose separate facilities (as the lesser of two evils).

2. Where New Jersey-type legislation appears to be a real possibility, the industry might propose that operators of restaurants, cabs and other public "institutions" be permitted to establish whatever smoking policy they desire--"Smoking permitted anywhere," "No smoking

permitted," "Separate facilities for smokers," or "Separate facilities for non-smokers"--but with the requirement that the smoking conditions that apply be posted outside the premises for the convenience and protection of smokers and non-smokers alike.

3. In view of the widespread public belief that public service advertising by non-profit organizations should be subject to the same FTC scrutiny as commercial advertising, we think it might be desirable to noisily file an action with the FTC the next time public service advertising misquotes the facts about smoking and health, and to further demand that the FTC require the offending organization to run "corrective" advertising as Listerine has been required to do.

4. While the public widely supports government programs to discourage cigarette smoking, a majority opposes spending tax dollars for such a program--which suggests such programs might be vulnerable if people were made aware of their costs.

5. Several questions in this study suggest that where there is substantial support for government action against cigarette smoking, there is a discernible decline of such support when people are made aware of the other government intrusions that might follow. "Where will it all end?" might be effective in blunting anti-smoking regulation.

6. Another short range tactic is suggested by the question concerning "fumaphobes." The findings suggest that there is the possibility of dividing those who are relatively unexcited about the passive smoking issue from the anti-smoking zealots, by portraying these zealots as people with an unreasonable fear of cigarette smoking.

* * * * *

But we would repeat that since the anti-smoking forces have now gone a long way in convincing the non-smoker that his health, too, is at stake, the number one

objective in our opinion is to develop authoritative and credible evidence with respect to the effects of passive smoking on the non-smoker's health. The issue, as we see it, is no longer what the smoker does to himself, but what he does to others.

Exhibit R-2

FPPC SCHEDULE E-2 Californians for Common Sense 10/24/78 TO 12/31/78 PAGE 13

NAME AND ADDRESS	DESCRIPTION OF PAYMENT	PERIOD AMOUNT
THE SUN REPORTER - METRO REPORTER GROUP 1366 Turk Street San Francisco, CA 94115	MISCELLANOUS ADVERTISING	2460.00
UNITED DEMOCRATIC CAMPAIGN COMMITTEE ID #76-1387 Attn: Williard Murra, C/O Senator Bill Greene 3514 South Broadway Los Angeles, CA 90003	DIRECT MAIL	20000.00
US POSTMASTER C/O Don Harris Signal Data Corporation 1450 East Spring Street Long Beach, CA 90806	DIRECT MAIL	9000.00
US POSTMASTER C/O Don Harris Signal Data Corporation 1450 East Spring Street Long Beach, CA 90806	DIRECT MAIL	9000.00
US POSTMASTER C/O Don Harris Signal Data Corporation 1450 East Spring Street Long Beach, CA 90806	DIRECT MAIL	9000.00
US POSTMASTER C/O Don Harris Signal Data Corporation 1450 East Spring Street Long Beach, CA 90806	DIRECT MAIL	14000.00
US POSTMASTER C/O Don Harris Signal Data Corporation 1450 East Spring Street Long Beach, CA 90806	DIRECT MAIL	9240.00
NUMBER OF EXPENDITURES THIS PAGE: 7	SUBTOTAL:	72700.00

J.A. 71

Exhibit R-3

AMENDED IN SENATE JUNE 12, 1980

AMENDED IN SENATE MAY 13, 1980

AMENDED IN SENATE APRIL 28, 1980

SENATE BILL No. 2026

Introduced by Senator Greene

March 19, 1980

An act to add Article 3 (commencing with Section 1401) to Part 4 of Division 2 of the Labor Code, relating to smoking, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 2026, as amended, Greene. Smoking.

(1) Existing law prohibits smoking in specified indoor places of public assembly in public buildings, in specified locations in health facilities and clinics, and other public buildings, and in food preparation portions of restaurants and in retail food marketing establishments.

This bill would require the establishment of smoking and no smoking sections or areas in enclosed public places, enclosed places of employment, enclosed health facilities, and enclosed clinics and would prohibit tobacco smoking in no smoking sections or areas, as specified.

The bill would require posting with signs in no smoking sections and areas, to be enforced by the Department of Industrial Relations. The department would be required to adopt standards to implement the bill, as specified. The bill would expressly preempt the field of smoking legislation after specified regulations adopted pursuant to the bill become effective, excepting other state law existing on the effective date of this bill which specifically affects tobacco smoking, state or local law or regulations restricting smoking for fire

prevention, ~~and~~ local ordinances controlling smoking in theaters, ~~as~~ *and* specified *provisions of the Health and Safety Code, as contained in SB 1108.*

Knowing violations of the provisions of the bill would be an infraction with specified penalties.

(2) The bill would appropriate $750,000 to the Department of Industrial Relations for the purpose of administering the provisions of the bill.

(3) Section 2231 of the Revenue and Taxation Code requires the state to reimburse local agencies and school districts for costs mandated by the state. The section also specifies the manner for paying the reimbursement and requires any statute mandating the costs to contain an appropriation to pay for the costs in the initial fiscal year. This statutory provision will be supplemented by a constitutional requirement of reimbursement effective for statutes enacted on or after July 1, 1980.

This bill appropriates an unspecified sum to the Controller for allocation and disbursement to local agencies and school districts for costs mandated by the state and incurred by them pursuant to this act.

(4) The bill would take effect immediately *as an urgency statute.*

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that smoking in certain enclosed areas may annoy or irritate nonsmokers, that regulation of smoking in certain areas is desirable to protect the comfort and environment of nonsmokers, and that it is not the intent of the Legislature to deny persons the right to smoke, but rather to recognize the rights of all individuals regardless of their use of tobacco products.

SEC. 2. The Legislature further declares that:

(a) The purpose of this act is to protect the health, comfort, and environment of nonsmokers in certain enclosed places.

(b) The intent of this act is to strike a reasonable balance between the needs of persons who smoke tobacco and the needs of nonsmokers.

SEC. 3. Article 3 (commencing with Section 1401) is added to Part 4 of Division 2 of the Labor Code, to read:

Article 3. Smoking and No Smoking Sections

1401. This article shall be known and may be cited as the "Smoking and No Smoking Sections Act of 1980."

1402. (a) Subject to the criteria set forth in Section 1403, smoking and no smoking sections or areas shall be established and designated in every enclosed public place, enclosed place of employment, enclosed health facility, and enclosed clinic. Any such place, facility, or clinic may be designated in its entirety as a smoking or no smoking area. No person shall smoke tobacco in a no smoking section or area.

(b) The provisions of this article shall not limit smoking in outdoor areas, in private residences, or in any place not established pursuant to the provisions of this article as a no smoking section or area, nor prohibit the sale of tobacco products.

1403. Smoking and no smoking sections or areas established and designated pursuant to this article shall be consistent with the purpose and intent of this article and shall conform with the following criteria:

(a) Smoking and no smoking sections need not be separated by walls, partitions, or other barriers. No construction or erection of ventilation devices, walls, partitions, or other barriers shall be required to comply with this article.

(b) Facilities and areas in which it would be inappropriate or impractical to limit smoking may be designated in their entirety as smoking areas. Impractical facilities and areas may include, but not be limited to, the following:

(1) An enclosed room normally occupied exclusively by persons who smoke tobacco.

(2) Hotel or motel rooms designed and used for rental

J.A. 74

to transient guests.

(3) Areas used for private social or business functions.

(4) Vehicles and other mobile workplaces.

(5) Areas wherein employee workstations are transient or mobile.

(6) Any other area in which it is determined it would be inappropriate to restrict smoking of tobacco.

However, the listing of impractical facilities and areas of this subdivision shall be deemed to be illustrative only and shall not be considered as restrictive, by analogy or otherwise. The Legislature intends that impracticality be a function of compliance difficulty, economics, cost-benefit, and similar factors.

(c) (1) Smoking shall be prohibited in patient care areas, waiting rooms, and visiting rooms of a health facility, except those areas specifically designated as smoking areas, and in patient rooms as specified in paragraph (2).

(2) Smoking shall not be permitted in a patient room unless all persons assigned to such room have requested a room where smoking is permitted. In the event that the health facility occupancy has reached capacity, the health facility shall have a reasonable time to reassign patients to appropriate rooms.

(d) Smoking shall be prohibited in any elevator.

(e) Notwithstanding any other provision of this article, any facility or area may be designated in its entirety as a no smoking area by the owner or manager thereof.

1404. (a) In any facilities subject to this article, clearly legible signs shall be conspicuously posted in every no smoking section or no smoking area established pursuant to this article, which signs shall state that smoking in such section or area is unlawful. The signs shall be sufficiently numerous to give reasonable notice to all persons in a no smoking section or no smoking area that tobacco smoking is unlawful. Such posting shall be the obligation of the lessee of leased premises and the obligation of the owner of premises which are not leased. In order that the lessee of leased premises or the owner

J.A. 75

of premises which are not leased may adopt signs adapted to their business needs, decor, and the nature of clientele or other members of the public frequenting such premises, the number, quality, type, and size of the signs required pursuant to this article shall not be specified by the Department of Industrial Relations by order or regulation, except when an alleged violation of the provisions of this section has occurred at the facility which is subject to such an order or regulation, any such order or regulation shall be issued after notice and hearing.

(b) Notwithstanding any other provision of this section, the standards adopted pursuant to Section 1408 shall designate areas and facilities where the posting of no smoking signs is unnecessary to fulfill the purpose of this article. No signs shall be required to be posted in such a designated area or facility.

(c) Notwithstanding any other provision of this section, in any no smoking section or area in which signs indicating that smoking is not permitted are already conspicuously posted, signs otherwise required by this section are not required to be posted until such preexisting signs are worn out or removed.

1405. (a) Knowing violation of any provision of this article is an infraction. Any person who violates any provision of this article shall be subject to a fine of not more than fifteen dollars ($15) for each violation.

(b) Enforcement of this article shall be by citation. No person may be taken into custody or be subject to search by peace officers solely because of the violation or suspected violation of a provision of this article.

(c) Each day on which a knowing violation of the sign-posting requirements provided in this article occurs shall be a distinct and separate violation.

(d) The Department of Industrial Relations and local law enforcement departments shall enforce the sign-posting requirements provided in this article. Local law enforcement departments shall enforce the other provisions of this article.

1406. No person shall discharge or refuse to hire any

J.A. 76

employee or applicant for employment because such employee or applicant exercises any rights afforded in this article.

140*r*. (a) Except as provided in subdivision (b), and notwithstanding the provisions of Section 1408, it is intended that this article shall preempt and wholly occupy the field of legislation, or other regulation, of smoking in enclosed areas. However, legislation and other regulation of smoking in effect on the effective date of this section shall not be preempted by this article until the effective date of the regulations adopted pursuant to Section 1408.

(b) (1) The provisions of this section shall not invalidate any other state law specifically affecting tobacco smoking in effect on the effective date of this section.

(2) The provisions of this section shall not invalidate any state or local law or regulation which restricts smoking for the purpose of preventing fires.

(3) The provisions of this section shall not invalidate any local ordinance controlling smoking in any premises devoted primarily to the production or display of motion pictures or the performing arts.

(4) The provisions of this section shall not invalidate Sections 1234, 1235, 1286, 1290, and 25942 of the Health and Safety Code, as amended or added by Senate Bill No. 1108 in the 1979–80 Regular Session of the Legislature.

1408. (a) On or before July 1, 1981, the Department of Industrial Relations shall adopt, and may thereafter amend, revise, or repeal standards in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement the provisions of this article. The standards shall, among other things, specify those facilities and areas which may be designated in their entirety as smoking areas pursuant to subdivision (b) of Section 1403, provided no such standard shall be founded upon workplace safety.

(b) The Department of Industrial Relations shall have exclusive administrative jurisdiction under the provisions

J.A. 77

of this article with respect to the issuance of standards for the establishment and designation of smoking and no smoking sections and areas.

(c) No special bureaucracy shall be created within the Department of Industrial Relations or within any other governmental agency for the administration of the provisions of this article or the standards adopted pursuant thereto.

1409. Unless the context otherwise requires, the following definitions shall govern the provisions of this article:

(a) "Place of employment" means any fully enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, meeting rooms, and employee cafeterias. A private residence is not a "place of employment."

(b) "Public place" means any area to which the public is invited or in which the public is permitted, including, but not limited to, restaurants, theaters, waiting rooms, reception areas, and instrumentalities of public transportation. A private residence is not a "public place."

(c) "Smoking" or to "smoke" means and includes the carrying or holding of a lighted cigarette, cigar, pipe or any other lighted smoking equipment used for the practice commonly known as smoking, or the intentional inhalation or exhalation of tobacco smoke from any such lighted smoking equipment.

(d) "The Department of Industrial Relations" means the Department of Industrial Relations or any successor thereof.

(e) The standards adopted pursuant to Section 1408 shall contain such other definitions as the Department of Industrial Relations shall deem appropriate to carry out the purposes of this article.

1409.5. If any provision of this article or the application thereof to any person or circumstance is held invalid, any such invalidity shall not affect other

provisions or applications of this article which can be given effect without the invalid provision or application, and to this end, the provisions of this article are severable.

SEC. 4. The sum of _____ dollars ($_____) is hereby appropriated from the General Fund as follows:

(a) Seven hundred fifty thousand dollars ($750,000) to the Department of Industrial Relations for the purpose of administering the provisions of this act.

(b) _____ dollars ($_____) to the Controller for allocation and disbursement to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Breathing of second-hand tobacco smoke for extended periods may cause disease in healthy nonsmokers or aggrevate the condition of the millions of Californians with heart or lung disease. Second-hand tobacco smoke can cause irritation of eyes, nasal passages, lungs, and skin of allergic persons and causes unnecessary discomfort to nonsmokers. In order to protect the public health and safety and in order to reduce the disease of healthy persons and eliminate aggrevation of the condition of sick persons at the earliest possible time, it is necessary that this act take immediate effect.

O

Exhibit R-4

Sacramento, CA
(Sacramento Co.)
Bee
(Cir. D. 192,987)
(Cir. S. 210,360)

APR 15 1980

Allen's P. C. B. Est. 1888

"SACRAMENTO BEE - APRIL 15, 1980"

Another Smoking Hazard

3270

At first glance, SB 2026 looks like a good step in the right direction. The bill being carried by Sen. Bill Greene of Los Angeles, would establish smoking and non-smoking sections in enclosed public places and private places of employment. It thus appears to be trying to accomplish by legislation what Proposition 5, the smoking initiative defeated in 1978, sought to achieve and what the backers of Prop. 5, who are now circulating petitions for a new initiative, are trying to accomplish again.

But SB 2026 is not what it seems. On closer inspection, it turns out to be an attempt at a pre-emptive strike, a diversionary measure which, though worded in part precisely like the proposed initiative, is so full of exemptions and loopholes that its net effect would be worse than no new legislation at all.

Although the bill resembles the proposed initiative in establishing smoking and no-smoking areas, it also provides that "facilities and areas in which it would be inappropriate or impractical to limit smoking may be designated in their entirety as smoking areas." That provision would not only exempt places like bars — where it may indeed be "inappropriate" to ban smoking — but any place whose owner doesn't want to bother segregating smokers or where management is unwilling to ban smoking altogether.

There are other flaws. The bill pre-empts all local smoking control ordinances, thus repealing a number of local laws that are far more stringent, fails to give adequate protection to non-smokers in hospital rooms, and, in general, provides that where there is a conflict, there should be a "reasonable balance" between the rights of smokers and non-smokers, a balance which, in the light of recent medical data, is a choice of neutrality between health and sickness. If passed, SB 2026 could easily be used by the tobacco industry to prove that the Legislature had already provided the smoking regulations that the initiative calls for.

It would be nice if that were true. All things considered, it would be far better if control of smoking could be accomplished through legislation rather than through the more cumbersome initiative process. SB 2026, however, isn't it. Unless it can be substantially amended when it comes up before the Senate Industrial Relations Committee this week, it ought to be defeated.

J.A. 80

A Tale of Two Initiatives

Exhibit R-5

Miami Initiative Backers Charge Fraud

Backers of a strong nonsmokers'-rights initiative that will be presented to the voters of Miami in November believe that a bill just introduced before the Board of County Commissioners (Metro Commission) is "a deliberate device to trick and confuse the voters." Although the bill and the initiative have very similar names and both would regulate smoking, initiative backers feel that the bill was deliberately made much weaker. If the bill is adopted by the Metro Commission before November, as expected, they are afraid that citizens will fail to vote for the initiative because they think that the bill has accomplished the same objective or because they confuse the two.

Sponsors of the initiative say that the bill is far too weak and cite the following inadequacies:

- The bill would permit unlimited smoking in facilities that meet certain minimum ventilation requirements, although it has not been shown that such systems would eliminate the problems experienced by nonsmokers.
- The bill would permit unlimited smoking in most facilities of 1,500 square feet or less, thus wiping out protections that nonsmokers already have under existing law.
- The bill provides that restaurants seating 50 or fewer people would not have to provide no-smoking sections.
- The bill permits all facilities to establish smoking areas and does not limit their size.

The introduction of the bill suggests to some people one of the recommendations the Roper Organization made to the tobacco industry in its 1978 report, which was leaked to the public as a result of an ASH-triggered investigation of the tobacco industry. Roper suggested that when confronted by a major threat to its interests, the industry could promote weaker protective legislation and thus avoid restrictions that might really hurt.

Backers of the initiative, who are furious about this latest development, urge Miami residents not to be confused and to learn the facts before voting in November. For more information call (305) 448-2433 or 858-1809.

Californians To Vote on Nonsmoker Referendum

Because proponents were able to gather more than 500,000 valid voter signatures in support, Californians will have a second chance this November to vote on a referendum that would require no-smoking sections in most public areas, including places of employment. Proposition 5, a similar proposal, was defeated in 1978, when the tobacco industry outspent proponents by more than 10 to 1: $6,400,000 to $600,000. The tobacco industry admits that it is sensitive to charges that they "cynically bought the election two years ago" and reportedly is now "studying the new proposal."

Perhaps a more serious threat to the initiative is a proposed law — SB 2026, called the "Greene bill" after its sponsor — that is now being considered by the California legislature. This bill, like the initiative, recognizes that nonsmokers should be protected, but proponents of the initiative point to the following important differences:

- The initiative specifies that when the needs of smokers and nonsmokers conflict, the needs of nonsmokers must take priority. The bill does not.
- The initiative provides that when it is impractical to divide an area into smoking and nonsmoking sections, the entire area becomes nonsmoking, while the bill would allow smoking.
- The initiative guarantees to every person who works indoors a nonsmoking work section; the bill offers no such protection.
- The initiative applies to educational facilities; the bill does not.
- The initiative permits local governments to enact further legislation to protect nonsmokers. The bill preempts that right and would invalidate all local legislation now in effect, some of which is very far-reaching.

An editorial in the *Sacramento Bee* called the Greene bill " a diversionary measure that, though worded in part precisely like the proposed initiative, is so full of exemptions and loopholes that its net effect would be worse than no legislation at all."

The initiative is sponsored by Californians for Smoking and No Smoking Sections, which has offices in both Northern and Southern California: P.O. Box 1061, Berkeley, CA 94701, (415) 841-3032; and P.O. Box 45876, Los Angeles, CA 90045, (213) 671-1492.

* * *

Chip off the old block? President Carter has six tobacco-grower caps, which he often wears for photographs, and he has made statements minimizing the effect of tobacco on the health of smokers and nonsmokers. He also fired Joseph Califano, the antismoking head of the old Department of Health, Education, and Welfare. His son Chip recently helped organize a firm to defeat the Clean Indoor Air Ordinance in Miami; a sizable chunk of the bankroll came from the tobacco industry.

* * *

J. A. 81

Exhibit Q-1

Declaration of Paul Loveday

I, Paul Loveday, declare:

I am an attorney licensed to practice law in all the courts of the State of California. My business address is Two Embarcadero Center, 24th Floor, San Francisco, California 94111. I know of my own personal knowledge that the facts contained in this Declaration are true, and I will so testify under oath if called upon to do so.

Shortly after sufficient signatures were filed with the applicable county clerks to guarantee that the Smoking and No Smoking Section Initiative would qualify for the November 4, 1980 ballot, I had lunch with Don Bradley, a professional campaign manager. We discussed the possibility of Mr. Bradley's managing the campaign favoring such initiative. Among other things, we discussed the potential opposition to the initiative and whether or not the Tobacco Industry would oppose the Initiative as strongly as they opposed Proposition 5. Mr. Bradley told me he would speak with Mr. Joe Cerrell to determine what the plans of the Tobacco Industry were. Mr. Bradley informed me that Joe Cerrell was a paid political consultant for Philip Morris.

On Tuesday July 1, 1980, I spoke with Mr. Don Bradley to inform him that the Yes on 10 Board of Directors had selected another person as campaign manager and to express my gratitude to him for the time he had given to me and my associates. Mr. Bradley told me during that conversation that he had spoken with Mr. Cerrell who had informed him that the Tobacco Industry had decided to run a campaign in opposition to Proposition 10.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 16, 1980.

Paul L. Loveday

Paul L. Loveday

ENDORSED
FILED
In the office of the Secretary of State
of the State of California
JUN 12 1980
MARCH FONG EU, Secretary of State
Phyllis E. Biaggi
Deputy

ARTICLES OF INCORPORATION

OF

CALIFORNIANS AGAINST REGULATORY EXCESS

I

The name of this corporation is CALIFORNIANS AGAINST REGULATORY EXCESS.

II

A. This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

B. The specific purpose of this corporation is to promote the social welfare. In furtherance of this objective, the corporation shall have the following purposes:

(1) The corporation shall promote civic betterment and social improvement by attempting to lessen the burdens of government. The corporation will seek to promote these objectives through direct communication with the public concerning ballot measures, legislation, administrative regulations and judicial decisions. All such communications shall be limited by the laws and regulations pertaining to organizations with tax-exempt status under Internal Revenue Code Section 501(c)(4).

(2) The corporation shall seek to educate the public concerning subjects which relate to government and the community. In order to accomplish this objective, the corporation shall sponsor educational programs through public forums, panel lectures, radio, television, direct mail and other similar activities.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

Robert Nelson
1633 East 4th Street, Suite 144
Santa Ana, California 92701

EXHIBIT A

J.A. 83

IV

A. This corporation is organized and operated exclusively for social welfare purposes within the meaning of Section 501(c)(4) of the Internal Revenue Code.

B. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code.

V

The property of this corporation is irrevocably dedicated to social welfare purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer of member thereof, or to the benefit of any private person.

VI

Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation, shall be distributed to a nonprofit fund, foundation or corporation which has established its tax exempt status under Section 501(c)(4) of the Internal Revenue Code.

Dated: June 11, 1980

Kenneth Schnoll

KENNETH SCHNOLL, INCORPORATOR

I hereby declare that I am the person who executed the foregoing Articles of Incorporation, which execution is my act and deed.

Kenneth Schnoll

KENNETH SCHNOLL, INCORPORATOR

Form 420
1980

RECIPIENT COMMITTEE CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

For use by recipient committees which receive a cumulative contribution of $100 or more from a single source.

(Type or Print in Ink)

A OFFICIAL USE ONLY

Statement covers period from 1/1/80* through 9/23/80.

NAME OF COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS (aka C.A.R.E.; aka No on Proposition 10; aka No on 10)

I.D. NUMBER: 801908

ADDRESS OF COMMITTEE: (NO. AND STREET) 1633 East Fourth Street, Suite 286 (CITY) Santa Ana, (STATE) CA (ZIP CODE) 92701 (AREA CODE PHONE NUMBER) 714 558-8100

NAME OF TREASURER: WILLIAM F. DOHR

PERMANENT ADDRESS OF TREASURER: (NO. AND STREET) 209-1/2 Opal (CITY) Balboa Island (STATE) CA (ZIP CODE) 92662 (AREA CODE PHONE NUMBER) 714 558-8100

TYPE OF ELECTION (CIRCLE ONE IF APPLICABLE): PRIMARY (GENERAL) SPECIAL RECALL

CIRCLE IF APPLICABLE: SEMIANNUAL CAMPAIGN STATEMENT

DATE OF ELECTION (MO., DAY, YR.): November 4, 1980

TOTAL PAGES: 67

ALLOCATION OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES

(Allocate expenditures from Schedules E & F by candidates, officeholders and measures; amounts may be rounded off to whole dollars.)

OFFICIAL USE ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE Support	CHECK ONE Oppose	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Smoking and Non-Smoking Sections, Proposition 10		X	304,252.80	304,252.80
	*Committee formed July 8, 1980				

Attach additional information on appropriately labeled continuation sheets.

C

D

E

F

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and that I have used all reasonable diligence in their preparation.

Executed on 9/29/80 (DATE) at Los Angeles, CA (CITY AND STATE) by DANA W. REED, Assistant Treasurer

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement and its schedules.

not applicable

Executed on _____ (DATE) at _____ (CITY AND STATE) by _____ (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

For information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provisions of the Political Reform Act," Section XI.

J.A. 85

Exhibit H-2

NO PROP. 10

CALIFORNIANS AGAINST REGULATORY EXCESS
1833 E. FOURTH ST., #286
SANTA ANA, CA. 92701
(714) 558-6100

August 15, 1980

Dear Mr. Greenwood:

The campaign against Proposition 10 -- the anti-smoking initiative -- is well underway. Once again, the private sector is being subjected to a devastating blow that would impose stringent government regulations for compliance with this measure.

The irony is that many companies are presently dealing with the smoker/non-smoker problem on a voluntary basis. You may already have expended great effort and expense to set up segregated areas to handle this issue. No matter; you are now faced with mandatory regulations and the problem of meeting some very ambiguous bureaucratic standards.

Cost prohibits the No on 10 campaign from using media; therefore we are relying heavily on personal contact with the voters who need to express their displeasure with more government. This becomes an education process and, in order to achieve this, we need informed speakers who are leaders in the community, willing to speak out against this poorly-conceived measure.

While we realize it is difficult for you to devote a lot of time outside your primary work effort, we are requesting your help in one of two ways: that you be available upon occasion to speak on this vital issue, or that you provide us with at least two names of potential speakers with high credibility.

Voluntary private sector vs. mandatory public sector: the differences are clear. Industry is known for solving problems - government is known for perpetuating them. Help keep the control of our internal business operations in the hands of private sector management.

We'll be contacting you in the very near future. Thank you for your help.

Sincerely,

Jere Gilmour
Jere Gilmour
Director,
Speakers Bureau

David Bergland
David Bergland
Chairman, C.A.R.E.

Houston I. Flournoy
Houston Flournoy
Former State Controller

J. A. 86

Opposition Leaders Claim Proposition Is Deceptive

Sunday, September 7, 1980 Los Angeles Times

H-3

Robert Nelson is a non-smoker who quit four years ago. Evelyn E. Padberg is a smoker, albeit not a chain smoker. Together they have organized a campaign to fight Proposition 10, which they view as a major piece of deception.

Nelson, 38, grew up in Whittier and has worked in Orange County for a number of years in positions ranging from a fiscal analyst to Orange County Supervisor Connor to an aide to the county's board of supervisors.

Nelson's first taste of the political consulting field came in 1976 when he was hired by Irvine-based Baecher-Farris, the firm that rocketed to success on the crossovers of Howard Jarvis and Proposition 13.

In 1977, Nelson opened his own consulting firm, Robert Nelson & Associates of Santa Ana, and, since then, has handled primarily local issues and candidates. One exception was his successful advertising campaign in 1978 for Jerry Kang's election as lieutenant governor in Hawaii.

The 38-year-old Padberg is from Philadelphia and has been an Orange County resident since 1964. She and who has been active in Republican politics since 1964 and has been a lobbyist for the Orange County Employees Assn. Padberg also is state chairwoman for the Republican Women's Task Force of California, a major group behind the equal rights amendment.

Question: What is your primary force in energizing the campaign against Proposition 10?

Nelson: I think we're going to deal primarily with the question of deception. You know it's one thing for the proponents of an initiative to have a bad idea. It's another one for them to attempt to deceive people into believing they have a good idea...

By labeling (Proposition 10) a smoking and no-smoking initiative (instead) and by saying there shall be smoking areas set aside, the basic technique is at work convincing people there are going to be separate smoking and non-smoking sections. But as you begin going down further and further into the law, you begin to realize there are no protections (for the smoker) guaranteed. There are some implied but none guaranteed. Whereas for the non-smoker, there are guarantees....

Padberg: And think about this. At LAX a policeman approaches you and says, "Hey, buddy, put out that cigarette." I could just see that happening to me. I'm grouchy. I just came off a four-hour flight. And I say, "Take a hike."

But (the policeman) says, "Put out that cigarette." He is very officious. He throws me up against the wall. He has a right to detain me in whatever way possible.

Q: Isn't that an extreme example?

Nelson: It happened right here in Orange County. We see (Proposition 10 leading to) widespread citizen arrests and enforcement which we see as an invitation for violence.

(Nelson's reference was to a 1978 protest at the Orange County Courthouse at which the Group Against Smoking Pollution (GASP) made citizen arrests of alleged violators of the courthouse's no-smoking ordinance.)

Q: But, according to backers of Proposition 10, the measure is a response to the wishes of both smokers and non-smokers.

Nelson: That's a lie just like their ballot arguments are completely false when they say that smokers can have a place where they can smoke. If this truly guaranteed that smokers would have a place to smoke, we might not object to it. But it absolutely doesn't. It wipes out entire areas. . . .

What about a bank? Are you going to have a smokers and a non-smokers line. It's unpractical. It will be left to the health department if it is (practical or impractical) to divide work areas into (smoking and no-smoking) areas. . . . Impractical means that you cannot guarantee a certain volume of recirculated air per employee. . . . If you can't provide that, then the whole area must be non-smoking. That means that no employee would have the right to smoke at a work station.

Think also for the moment of a large bay of clerical workers where their desks are immediately adjacent to one another. Where's the smoking area and the no-smoking area?

Q: Are you suggesting that Proposition 10 supporters are eventually aiming for an absolute smoking ban in public places?

Nelson: I think that's absolutely what they want. But if that's their objective, they have every legitimate right to have that objective. They have a right to their political viewpoint, and we have a right to ours. What I object to is the deception. . . . What we hope to make a point of—to the media particularly—is when this law is really going to do. . . . It is going to eliminate widespread no-smoking areas.

Q: That doesn't appear to be the current perception of the measure.

> *'And some (tobacco companies) might help and some might not.'*

Nelson: Right now, they've basically taken control of the issue. By their initial success in convincing many people that this measure provides for equal opportunities for everyone to enjoy their own personal customs, they have succeeded in gaining the momentum of the campaign.

The key question is going to be whether or not we are able to alter that perception that there is in fact not a true equal balance of protection for everybody. And in fact what it is is untrained authority for

Please Turn to Page 2, Col. 1

CARE
Californians Against Regulatory Excess

Continued from First Page

the (Department of Health Services) to decide where you can smoke or can't smoke.

Q: The cigarette companies, the major funders of the campaign against 1976's Proposition 5, haven't entered the campaign yet. If the industry decides to make a major cash commitment, do you think they would do it through your firm?

Padberg: Sure we think so because it is the easiest avenue for them (since the Nelson firm already has begun its campaign).

Q: What contacts have you had with the industry?

Padberg: We've had some meetings with (the companies). We obviously want their help. We met with them in Washington (in July).

Q: What was their response?

Nelson: They said they would think about it. And some might help (financially) and some might not... They appear to be holding their cards close to their chests.

Q: There was no commitment resulting from your meeting?

Padberg: No. They interested in us (but) they are very interested in what happens in California. They certainly want to see the initiative defeated... (but) I don't know at this time to what extent that support would go... We answered them that we've formed a committee and who the members are. We just basically said we have a campaign going . . . we want your help.... We told them how we thought we could beat it.... We made a presentation.

Q: So thus far, you haven't received a penny from the companies?

Padberg: We've received some small contributions from some individual companies.

Q: Some cigarette companies have contributed under an figure?

Padberg: Definitely, yes.

(Nelson) Substantially less than six figures.

Q: What, then, is your campaign funding goal?

Nelson: To raise every penny we can.

Q: Do you need the cigarette companies to fight this measure?

Padberg: We could do it without them. It certainly would be a lot easier with them. But we could do it without them.

Nelson: It's probably going to depend on whether small business establishments—restaurants and bars—are willing to be at risk of losing all of their customers who smoke because they cannot practically accommodate smoking and non-smoking sections, as they unfortunately become no-smoking. It's a question of whether people who are concerned about having a government agency (the Department of Health Services) dictate their lives are going to help fight that.

Q: Are you going to respond to the medical allegations concerning the hazards of secondary smoke?

Nelson: I don't know.

Q: What other issues—aside from your view that the measure is deceptive and unconstitutional—do you plan to hit?

Nelson: The cost of enforcement. The cost to the consumer. The cost to private business... The question of whether we want to have a law passed which will give unlimited authority to state health department employees to decide where you'll smoke and where you won't smoke. . . . Giving up to some appointed bureaucrats with civil service tenure the right to decide what whole industries are going to be completely at their mercy.

Q: In the end, isn't it the question of whether it is right or wrong to smoke?

Nelson: We're not here to defend whether it is right or wrong to smoke. I myself quit smoking four years ago because I didn't want to. The question we have here is not whether it is good, bad, right or wrong to smoke. The question is whether we want to have a law passed which will give unlimited authority to state health employees to decide where you'll smoke and where you won't smoke.

RONALD L. SOBLE

J.A. 87

Palo Alto, CA
(Santa Clara Co.)
Peninsula Times
Tribune
(Cir. 6xW. 62,677)

OCT . - 1980

Allen's P. C. B [illegible]

Supporters of anti-smoking proposal challenge opponents to disclose source of contributions

By John Stanton
Times Tribune staff

SACRAMENTO — Supporters of an anti-smoking initiative on the November ballot Tuesday challenged opponents to join them in disclosing every week the sources of their major campaign contributions.

The ploy is intended to reveal that tobacco companies are financing opposition to the measure, Proposition 10.

A spokesman for the anti-10 campaign acknowledged Tuesday that tobacco companies are financing most of the campaign, but not nearly to the extent they did two years ago.

In 1978 tobacco companies spent more than $6 million in defeating an initiative that would have greatly curtailed smoking in public places.

So far this year about $140,000 has been contributed to oppose the newest initiative, "and the bulk of it, frankly, is from tobacco companies," said Jack Johnson, news director of Californians Against Regulatory Excess.

At this point two years ago, the tobacco companies had spent $2.4 million to fight the anti smoking measure.

The latest initiative is a more moderate version of the 1978 measure. Sponsored by the American Cancer Society and other health organizations, it would require restaurants, stores and many other buildings, including places of employment, to provide smoking and non-smoking sections.

Peter Hanauer, treasurer of the Yes on 10 Committee, said he and campaign chairman Paul Loveday had sent a letter to David Bergland, chairman of the anti-10 campaign, asking him to join them in a pledge publicly to release every Thursday the name of every contributor of more than $1,000.

The law does not require another campaign filing disclosure until Oct. 23, 12 days before the election.

"We think that is too close to election day to wait for the public to know who is financing each side of this campaign," Hanauer said.

"So we are calling on the opposition in the spirit of fair play ... to disclose to the public every week from now until election day just who is financing their campaign, as we will do for our campaign."

Hanauer announced that the Yes on 10 campaign has received so far $141,000 in contributions and has spent $112,000. The California division of the American Cancer Society contributed $35,000, he said. Other major contributors were the San Diego Heart Association, $7,000; the American Lung Association, $5,000; and the California Group Against Smoking Pollution, $2,600. Singer Kenny Rogers donated $1,000, as did a Daly City mailman, Bruce J. Martin.

Hanauer said that two years ago "more than 99 percent" of the money spent against the anti-smoking initiative came from the tobacco industry.

This year, he said, "it seems logical the tobacco companies will withhold their contributions until it is too late for the public to realize what they are doing."

He said he is afraid the tobacco industry will wait until after the current reporting deadline before pouring money into the campaign.

The latest Field Poll shows Proposition 10 leading 2-1, Hanauer said, and the only way to turn the election around "would be a major blitz in the last few days of the campaign," and only the tobacco companies can supply the needed money.

Johnson dismissed Hanauer's fears as unfounded.

"I'm not saying the Tobacco Institute isn't going to put any more money into the campaign," he said, but he anticipates any further contributions "to be very limited."

J.A. 88

EXHIBIT H-5

DECLARATION OF ROBERT DE VRIES

I, Robert De Vries, declare:

I am a May 1980 graduate of University of California, Hastings College of Law, and expect to be admitted to the California Bar in November, 1980. I know of my own personal knowledge that the facts contained in this Declaration are true, and I will so testify under oath if called upon to do so.

1. I have been working on behalf of Californians for Smoking and No Smoking Sections to assure that California broadcasters meet their Fairness Doctrine obligations regarding ballot Proposition Ten.

2. In the course of my work on behalf of Californians for Smoking and No Smoking Sections, I have spoken with representatives of numerous California broadcasters that are running advertisements in opposition to Proposition Ten.

3. In the vast majority of cases, where the broadcaster was willing to give information as to the schedule of the anti-Proposition Ten spots, I was informed that the station had been broadcasting the anti-Proposition Ten spots continuously since September 30, 1980.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 26, 1980.

Robert De Vries

Tobacco Industry Funds Anti-Prop.10 Ads

Media Blitz to Portray Smoker-Separation Backers as 'Sneaky'

By ROGER SMITH
Times Staff Writer

A sudden influx of cash from the tobacco companies has enabled opponents of Proposition 10 to pay for a statewide media blitz which charges that "This time, it's sneakier than ever."

The measure, which would separate smokers from non-smokers in most enclosed public places, is also a chance for "bureaucrats to come along after the election to decide where it's legal to smoke and where it's not (legal)," the ads contend.

A spokeswoman for Santa Ana-based, Californians Against Regulatory Excess (CARE) said tobacco companies have contributed the bulk of a campaign fund now exceeding $800,000 to finance advertising against the Nov. 4 ballot measure.

Two years ago the tobacco industry contributed more than $6 million to defeat a similar but more stringent statewide ballot measure.

As of Sept. 23, the latest reporting deadline, tobacco companies had contributed $372,000 out of $384,337 collected by the No on 10 campaign. But since then they have underwritten an effort to buy time on 50 television stations and 105 radio stations throughout the state, it was learned from broadcasting industry sources.

Supporters of Proposition 10 say that they are now in a cash bind. The Yes on 10 campaign raised $410,787 through Sept. 23, but spent most of it just to qualify the measure for the ballot.

Until additional funds are raised, the Yes on 10 coordinators will ask for free broadcast time under the fairness doctrine to air their own commercials, which take an almost light-hearted approach to the issue rather than trying to rebut their opponents' charges.

Two No on 10 television commercials and four radio spots began airing this week.

In one television spot, a bartender gestures around his saloon and complains that under Proposition 10, "this place would have to be non-smoking. I'd be out of business."

The other depicts a woman disdainfully discarding the ballot measure. "It's a bad law," she says. "They didn't have to trick us."

The radio commercials follow a similar theme, that "this time it's even sneakier" than the measure two years ago.

In one, a barbershop quartet harmonizes, "How many times do we have to say no?" and "sneaky" as a policeman with an Irish brogue complains that "us police should spend our time looking for barglars, not smokers."

The ads are designed to hammer away at two provisions of the initiative: one that would allow officials in the state Department of Health Services to draft regulations to implement the measure if it passes and another that would require an establishment to bar smoking if separate sections are "impractical."

"Two years ago they told you what the law was going to say," said Eileen Padberg, one of the organizers of CARE. "Now they're saying, 'Later, we'll tell you where you can smoke. Just trust me.'"

Larry Levine, the political consultant for Californians for Smoking & No Smoking Sections, the Yes on 10 group, said the initiative calls for post-election drafting of regulations "to allow some flexibility." More than likely, such regulations would exempt small saloons from the law, he said.

"There is no pleasing the tobacco companies," he said. "Two years ago they said we were too specific. Now it's not specific enough."

Please Turn to Page 28, Col. 3

PROP. 10

Continued from Third Page

The Yes on 10 commercials avoid any strident denunciations of the tobacco industry. "It is an issue that is not life or death," Levine said. "We think lightness and a sense of humor are appropriate."

Besides, the Yes on 10 side has a 2-1 lead in the most recent opinion polls, Levine said.

"I don't think a four- or five-week media campaign by the tobacco industry will be enough to erode our lead," he said.

Two Yes on 10 television commercials and two radio ads were sent to stations around the state this week in the hopes of getting free air time. All feature Lloyd Bridges as offstage narrator.

In one television commercial, smokers are shown being given a hard time by non-smokers, including a pouting, pigtailed little girl. Then the smokers are escorted, smiling, to the smoking section of the restaurant.

"With just two simple signs and two sections, Yes on Proposition 10 will give smokers and non-smokers freedom of choice, and a place of their own. It's new, its reasonable, and it's only fair," Bridges says.

EXHIBIT H-4

J.A. 90

COMMERCIAL #2

Woman's Voice: You know what makes me mad?

Man's Voice: Loud motorcycles, chewing gum on theatre seats and opals with basic black.

Woman's: What makes me mad is when they try to trick us.

Man's: Trick us?

Woman's: That Proposition 10. It's downright sneaky.

Man's: Sneaky?

Woman's: Well, they say minor costs.

Man's: And?

Woman's: Minor? $130,000 for printing signs for government offices. $600,000 to $2,000,000 to install them. $2,000,000 to $13,000,000 for signs for private businesses.

Man's: I get the message.

Woman's: And Proposition 10 says, quote: "No person may be taken into custody or subject to search for violation".

Man's: So it does.

Woman's: But what they don't tell you is that California law says citizens can detain a person using reasonable force until the police get there to issue a citation, and the fine is $15.00.

Man's: Gotcha.

Woman's: And if you don't answer the citation, you could get a $500 fine and 6 months in jail, and it does not.

Man's: Does not what?

Woman's: Opals with basic black does <u>not</u> make me mad.

Man's: Hmmm.

Announcer: This time, it's even sneakier - vote No on Proposition 10. Paid for by Californians Against Regulatory Excess.

HE: HUH?

SHE: I SAID, SOMETIMES I THINK WE OUGHT TO DEVELOP A SPECIAL HEARING AID FOR THE REGULATORS.

HE: HUH?

SHE: YOU WONDER JUST HOW MANY TIMES YOU HAVE TO TELL 'EM.

HE: OH YOU MEAN LIKE PROP 10?

SHE: DIDN'T THEY HEAR US WHEN WE SAID NO LAST TIME?

HE: WELL, THEY SAY THEY'VE MADE IT BETTER THAN PROP 5.

SHE: BETTER? CITIZENS ARRESTING CITIZENS?

HE: CITIZENS ARREST?

SHE: AND A $15 FINE.

HE: FIFTEEN BUCKS?

SHE: AND IF YOU DON'T ANSWER YOUR SMOKING CITATION YOU COULD GET A $500 FINE AND SIX MONTHS IN THE SLAMMER.

HE: YOU'RE NOT SERIOUS.

SHE: AND WHAT DO YOU THINK WILL HAPPEN TO HARRY'S BAR.

HE: HEY, THEY BETTER NOT MESS WITH MY SALOON.

SHE: PROP 10 SAYS: WHERE IT'S IMPRACTICAL TO HAVE SEPARATE SECTIONS...

HE: ...LIKE JUST ABOUT EVERY SMALL BAR IN THE STATE...

SHE: THEY MUST ALL BE NON-SMOKING.

HE: THEY'D GO OUT OF BUSINESS.

SHE: HERE'S THE SNEAKIEST PART.

HE: THERE'S MORE?

SHE: YOU'RE NOT VOTING ON WHERE IT WOULD AND WOULDN'T BE LEGAL TO SMOKE

HE: WHADDYA MEAN?

SHE: WELL, YOU'RE VOTING TO LET SOME BUREAUCRAT COME ALONG AFTER THE ELECTION TO DECIDE THAT FOR YOU.

HE: HUHHH?

ANNCR. THIS TIME IT'S EVEN SNEAKIER. VOTE NO ON PROPOSITION 10. PAID FOR BY CALIFORNIANS AGAINST REGULATORY EXCESS.

Envelope in which
fundraising mailer was delivered

Californians Against Regulatory Excess
1633 E. Fourth Street, #288
Santa Ana, CA 92701

"SIGN THIS TICKET"

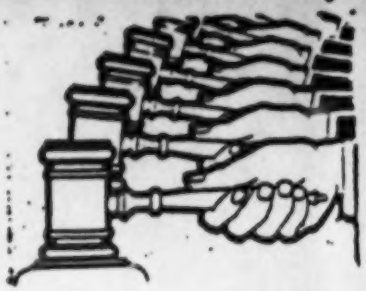
Exhibit J-1

J. A. 91

Exhibit J-1

CARE

Californians Against Regulatory Excess



Fundraising Letter — 4 pages 3 ink Colors

"YOU'RE UNDER ARREST!"

Dear Californian:

If California's new anti-smoking law is passed this November, YOU could be the one arrested.

All because you were "smoking in the wrong place".

That's right.

Under the new anti-smoking law, you will be suspect in every enclosed public place — it's up to you to find out whether you're smoking legally or illegally!

Offices, retail shops, indoor sports arenas... all of these may be off limits to you.

If that sounds ridiculous to you, let me tell you how serious the anti-smoking supporters are who want to pass this ludicrous new law.

First, the anti-smokers want to designate "smoking" and "no smoking" sections in every enclosed public place. (Of course, California taxpayers would pay for the signs labeling every government office in the state).

Then, if you're caught smoking in a section designated "no-smoking",

(over please...)

John Seymour
President
California Association of Realtors

Marv Wendt
Assistant Dir. of Patient Services
UCI Medical Center

David Bergland
Chairman
Libertarian Party Nat'l Council

Karen Peters
State Director
National Organization of Women

William Dohr
Secretary
California Republican Party

Tom Bansen
Chairman
California Assoc. of Tobacco & Candy Distributors

Richard Alatorre
Member of the State Assembly

Houston I. Flournoy
Former State Controller

Organizations and affiliations for identification purposes only

18362 E. Fourth St., Suite 256, Santa Ana, CA 92701 • (714) 558-8100

Exhibit J-1

you're subject to [illegible] and fine. (Of course, the anti-smokers say you can't be thrown in jail or body searched, but you can still get a ticket and a fine).

If this initiative sounds like something right out of George Orwell's "1984" I hope you will join with me in urging its defeat.

I don't smoke.

But I believe that people who do smoke have rights that are being tampered with.

That's why I helped form "Californians Against Regulatory Excess" (C.A.R.E.), a Committee whose only purpose is to fight ridiculous laws like this which stop people from exercising their rights in a free society.

Basically, the way the new anti-smoking law is written police officers can ticket you and you will be fined for "smoking illegally". Citizen arrests are allowed. If a non-smoker thinks you are smoking illegally he can use "reasonable force" to hold you until police officers arrive!

And Political appointees and bureaucrats decide where they will allow you to smoke...and where they will forbid it.

And if you smoke you will be prohibited from smoking anywhere the bureaucrats decide is "impractical" to separate into "smoking" and "no-smoking" sections.

Further any employee can demand to be moved into a separate no-smoking section or demand their work area be declared a "no-smoking section", even if other long-time employees in that same area smoke!

And when it come to hiring practices, you cannot refuse to hire a new employee who insists on working in a "no-smoking" section regardless of the cost to YOU!

The "bottom line" is that many small companies, shops and restaurants will have to be declared "off limits" to smokers — and that goes for the

customers, employees and owners, too!

Frankly, I'm damn mad that some small group has the unmitigated gall to regulate [illegible] and [illegible] using our tax [illegible]!

I want to see police officers on the streets, fighting violent and serious crime. Their job is difficult enough without being told they have to ticket honest citizens for smoking in the "wrong place".

And if the police don't have their hands full already, what about the courts? Every citizen who receives a "smoking ticket" can demand a hearing before a judge. If you think their case backlog is bad now, just wait until the smoking cases begin to clog the already overloaded courts!

Then, there's the poor employer. He will be forced to move employees based on personal habits rather than personal efficiency. There's no telling how much employee time will be lost because an employee chose to fight his "smoking ticket". And for every police officer who issues a ticket and has to testify in court, one less lawman is on the streets protecting our homes and families.

Well, what can be done?

Sign the enclosed petition to the major television and news networks. Only by alerting them now to this costly infringement on our personal freedom will we ever get any publicity in a Presidential election year.

We intend to use petitions from thousands of Californians at a news conference to show the anti-smokers who put this legislation on the ballot that we're not going to let them push us around any longer.

We want to send out a petition to every registered voter in California... Your $3 contribution will allow us to send out another 15 petitions like yours. But that can't be done unless you send your check for $3 (or whatever you can afford) today.

If we can send a petition like yours to every California voter, we'll have hundreds of thousands of petitions to show the anti-smokers they can't play

Exhibit J-1

(4)

with our rights and get away with it!

I think [redacted] is a small price to pay to protect our personal freedom, don't you?

I've enclosed a self-addressed, postage paid envelope for you to rush back your petition and your check. Send your petition and write your check today. Remember, if you wait, it may be too late [redacted]

Sincerely,

David Bergland

David Bergland, Chairman
Californians Against Regulatory Excess

P.S. The anti-smokers have already launched a major media campaign against us. The issue is not who is supporting the initiative. The issue is that your personal rights are being threatened.

P.P.S. Please send your check for $3 or more Today. Without broad support from citizens like you, The anti-smoker extremists could get their way. And once our rights are Taken, they're never returned. Won't you help — now?

Envelope provided for return Contributions

Exhibit J-1

RUSH

BUSINESS REPLY MAIL
FIRST CLASS PERMIT NO. 6647 SANTA ANA, CA 92701

POSTAGE WILL BE PAID BY ADDRESSEE

CARE
c/o Dobbs & Nielsen
612 S. Flower, #309
Los Angeles, CA 90017

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

Endorsement card enclosure

Californians Against Regulatory Excess
1633 East Fourth Street, Suite 286
Santa Ana, California 92701

VOTE NO ON 10

(714) 558-8100

YES!

We are not enough!

You may list me in the fight against Proposition 10, the no-smoking sections ballot proposition. I would like to help fight Proposition 10 by:

Name (Please Print) _____

Address _____

City _____ Zip _____ ( ) Phone _____

- ☐ using my name as endorsement
- ☐ distributing literature
- ☐ displaying signs
- ☐ speaking before groups

Exhibit J-1

J.A. 97

Exhibit J-1

Traffic Ticket Facsimile (front)

STATE OF CALIFORNIA — JUDICIAL COUNCIL — TRAFFIC

NOTICE TO APPEAR P-524401

☐ TRAFFIC ☑ NON TRAFFIC ☑ INFRACTION ☐ MISDEMEANOR

DATE 7-22-91 TIME 4:30 pm DAY OF WEEK

NAME (FIRST, MIDDLE, LAST) Robert E. Wilson

RESIDENCE ADDRESS (ST. NO. & ROAD) 17 BLACKMAN CITY 914-427-3044 ZIP CODE

BUSINESS ADDRESS CITY ZIP CODE

DRIVER'S LICENSE NO. A6257240 STATE BIRTHDATE 10-25-50

SEX M HAIR BN EYES BN HEIGHT 6'1" WEIGHT 180

VIOLATION(S) (SEE REVERSE) BOOKING NO.

ILLEGAL SMOKING IN OFFICE HALLWAY $5.00 FINE

☐ OFFENCE(S) NOT COMMITTED IN MY PRESENCE CERTIFIED ON INFORMATION AND BELIEF

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON _____

THE DATE SHOWN ABOVE AT _____ (PLACE) _____

ISSUING OFFICER ID VAC. DATES

FR: — TO: James Coy 932

NAME OF ARRESTING OFFICER-IF DIFFERENT FROM ABOVE I.D. PERM. AREA

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE CHECKED BELOW

SIGNATURE X James Q Public

☑ MUNICIPAL COURT ☐ JUSTICE COURT ☐ JUVENILE ☐ TO BE NOTIFIED

ADDRESS _____

☐ ON THE 9th DAY OF August 19 91 AT 9:30A ☐ WITHIN 15 DAYS

☐ OR YOU MAY APPEAR AT _____ P.M. ON _____

TO ANSWER CHARGES OF VIOLATION(S) DESCRIBED ABOVE

NOT AN OFFICIAL DOCUMENT
See Reverse Side

Exhibit J-1

Official

Petition

from the

Citizens of California

to

ABC, CBS, NBC, UNITED PRESS INTERNATIONAL and the ASSOCIATED PRESS

Petition / Facsimile / enclosure

OFFICIAL PETITION
(not valid after November 4, 1980)

Whereas, a small organization has qualified a NO SMOKING LAW for the November 1980 ballot; and,

Whereas, should this NO SMOKING LAW pass, every Californian's rights will be seriously jeopardized; and,

Whereas, police officers will be able to issue citations to those allegedly smoking illegally;

Whereas, if you are caught smoking illegally, you will be fined; and,

Whereas, having police officers arrest honest citizens for smoking seriously weakens our already-understaffed police departments and courts; and,

Whereas, police should spend their time patrolling our streets for burglars, not prowling office buildings searching for illegal smokers; so,

Now, therefore, be it resolved, that the signer(s) below, as citizens of California, do hereby petition the California news media to use their communication outlets to make voters aware of this costly, unfair and discriminatory NO SMOKING LAW.

Date Signed: _____ Signed: _____

Californians Against Involuntary Exposure,
[redacted] Santa Ana, Ca [redacted]

Signed: _____

• Please do NOT remove this form. We will remove it before we submit your petition to the national news media.

C.A.R.E.
[redacted] E. Fourth St., #286, Santa Ana, Ca 92701 • 714/558-8100

☐ **YES,** I want to help C.A.R.E. because I don't like being pushed around! My officially certified petition (to be distributed to the California news media) is enclosed.

☐ **YES,** I agree you have to send the truth and a petition to other Californians. I want to help by enclosing my check for:

☐ $3 (will send 15 petitions) ☐ $12 (will send 60 petitions)
☐ $6 (will send 30 petitions) ☐ $24 (will send 120 petitions!)

Please make your check payable to: C.A.R.E., and send both your petition AND your check today, using the enclosed postage-paid envelope marked "RUSH".

[redacted]

-Rush-

J.A. 99

Exhibit J-1

Ticket Facsimile (back)

IMPORTANT — READ CAREFULLY

WARNING: Willful failure to appear as promised is a separate violation for which you may be arrested and punished by 6 MONTHS IN JAIL AND/OR $1000.00 FINE, regardless of the disposition of the original charge.

INFRACTIONS: If the information box on the reverse side is checked, you may request a hearing by mailing a check or money order for the proper amount of deposit (see bail information below) by registered or certified mail at least 5 days before the required appearance date, indicating whether you wish the officer to be present. The court will notify you of your hearing date and time. Use of this procedure waives statutory limits on time for trial and failure to appear at trial is a misdemeanor.

BAIL INFORMATION: The clerk of the court in which you have promised to appear is authorized to accept as the deposit bail the specified sum for your appearance. For some offenses this deposit may accept this deposit by mail, and certain days be forfeited, thereby relieving you of your duty to appear. (A bail forfeiture is a conviction of the charged offense.)

NIGHT COURT: Night sessions for the purpose of posting bail, arraignment, taking pleas and setting cases for trial are held in some courts. (Gov. C. 72300). The officer will have indicated by check mark on the bottom line of the front side of the citation if night sessions are available in the court to which you are cited.

JUVENILES (Under 18 Years of Age, Unmarried): You must appear with driver's license on the date and time indicated, accompanied by parent or guardian.

DATE _____ VIOLATION CORRECTED

OFFICIAL STATION _____

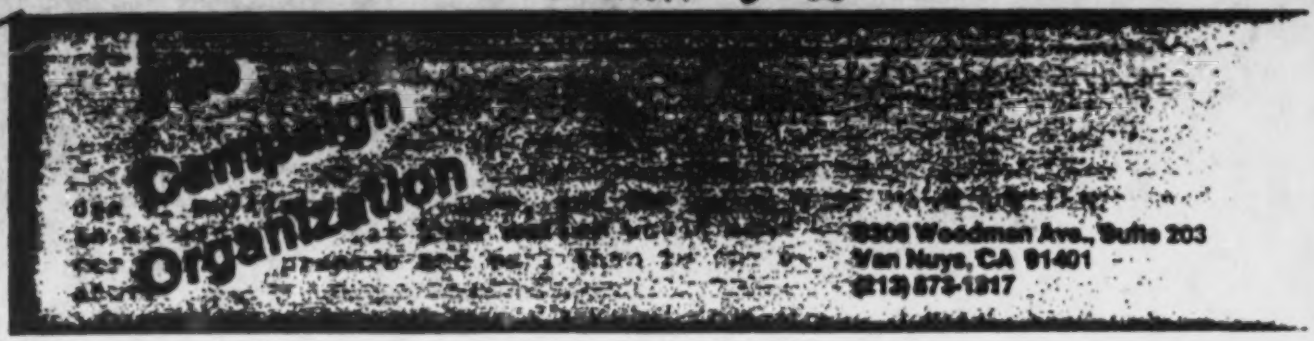
(Badge Number/License/Office Code Number)

CERTIFIED BY _____

DISCLAIMER!!!

This is not an official California document. It is intended to be a sample of what your smoking ticket might look like if the No Smoking Sections initiative is passed.

Exhibit J-2



A DECLARATION CONCERNING DIRECT MAIL FUNDRAISING

I, Larry Levine, declare:

1. I am a professional election campaign manager and have worked at said profession exclusively for more than ten years. I am the owner of The Campaign Organization, 6308 Woodman Avenue, Suite 203, Van Nuys, CA 91401, an election campaign management firm. During my professional experience I have planned, designed, written, coordinated and caused to be mailed and monitored for returns an excess of five million pieces of fundraising mail for political candidates and issues of public debate and concern. I know of my own personal knowledge that the facts contained in this Declaration are true, and I will testify under oath to each of these facts if called upon to do so.

2. I am in possession of and have been asked to review a fundraising mailer produced by Californians Against Regulatory Excess and to project the probable results of said mailer.

3. Using an estimated cost of 20 cents per unit of mail for production, printing, postage, and mailing of mass mail fundraising, it has been my experience that a return of .015 percent (1 1/2%) of the total pieces mailed and an average contribution of approximately $15 would be necessary for a mass fundraising mailer to break even. The 20-cent unit cost cited is the estimated average cost of fundraising mailers The Campaign Organization has produced for various clients during the last 18 months.

4. Based on average commercial printing prices in today's market, the subject fundraising mailer of Californians Against Regulatory Excess would have cost far in excess of 20 cents per unit to prepare and mail for the following reasons: (a) the length of the fundraising letter and the multiplicity of ink colors it employs; (b) the fact that a bulk rate postage stamp was used as opposed to an imprinted bulk rate permit or a postage meter, thus adding to the cost of preparing the mail; (c) the multiple colors and the picture used on the mailing envelope; (d) the fact that the return envelope does not require the contributor to supply return postage and that the recipient organization would be responsible for 25 cents postage per response; (e) the multiplicity of enclosures which include a multi-colored facsimile of a traffic ticket printed on two sides, a multi-colored endorsement card, and a multi-colored facsimile of an over-sized petition. The number of pieces enclosed in this mailer, the design of the envelopes, the

use of multiple ink colors, and the payment of return postage lead to an estimate that this mailer would have cost closer to 40 cents per unit to prepare and mail than to the benchmark 20 cents cited above.

5. Based on standard and accepted practices of soliciting funds through direct mail, there is no reasonable possibility that responses to this mailer could have averaged anywhere near the $15 benchmark cited above. In order to average $15, a mailer needs to offer donors a selection of "check off" options that begins with $15 and ranges up to $100. The subject mailer offers "check offs" of $3, $6, $12, and $24. In addition, the letter asking for contributions specifically asks for donations of $3 and so asks on four different occasions. No other specific donation amount is mentioned in the letter. It is highly unlikely that this letter would have produced an average of any more than $3 per actual contribution.

6. Based on an estimated cost of 40 cents per unit to produce and mail this solicitation and an average contribution of $3 per response, this mailer would have had to produce a response in excess of 13 percent of the pieces mailed in order to break even. In my experience of 11 years of direct mail fundraising, I have never seen or heard of a mailer approaching that response level. Of all of the mailers I have produced over the years, none have exceeded an 8.5 percent response and only one has exceeded 6 percent. In the case of those two mailers, both were to the so-called "house" list of a citizens' action organization, and every name on the list had a history of having made prior contributions to the groups asking for funds. Since Californians Against Regulatory Excess did not form as an organization until July of 1980, it could have no such house list. In my experience, no "prospect" mailer--one sent to a list other than a "house" list--has ever exceeded a 4 percent response.

7. Based on my experience with direct mail fundraising, including the experience of having monitored responses of direct mail appeals for percentage of return and average amounts of contributions, it is my estimate that the subject fundraising mailer of Californians Against Regulatory Excess would have returned contributions amounting to about 30 percent of the cost of preparing and mailing the solicitation. This would anticipate a cost of 40-cent per unit to mail the appeal and a 4 percent response with a $3 average contribution.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration is executed on October 7, 1980.

Larry Levine
Manager/Consultant
The Campaign Organization

U.A. 102

DECLARATION OF ROBERT NELSON

I, ROBERT NELSON, declare:

I have read the letter of Paul L. Loveday, dated October 16, 1980, to the Federal Communications Commission and am providing information about Californians Against Regulatory Excess to correct the nonfactual statements made by Mr. Loveday.

In mid-summer of 1980, I met with a number of people in Orange County to try to organize a campaign against Proposition 10. I met with David Bergland, National Chairman of the Libertarian Party, John Seymour, a local government official and president of the California Realtors, Bill Dohr, Secretary of the California Republican Party, and Marvin Wendt, Jr., Assistant Director Patient Services, University of California at Irvine Medical Center. We all shared a personal conviction that Proposition 10 would be a terrible law.

I was responsible for choosing the name Californians Against Regulatory Excess and selecting the first members of the Board of Directors. I now learn that I am criticized for my selection of the name and for creating an acronym. In previous campaigns that I have managed I sometimes found it helpful to use acronyms (Stop Taxes on Property (STOP) Committee and Apartment Issues Mobilization Political Action Committee (AIM)). It is common for political organizations to use acronyms. Mr. Loveday's organizations are called Group Against Smoking Pollution (GASP) and Action on Smoking and Health (ASH). I did not test this name or the acronym.

Upon creating the campaign committee as a California legal entity, done by Dobbs & Nielsen, my political law attorneys of many years and the only attorneys in California who specialize in ballot measure committee law, I solicited the Tobacco Institute

and tobacco companies for support. I was told that my organization would need to prove itself and be broad-based before they would consider more than seed money contributions.

One of our first acts was the taking of a statewide poll. Since there are only three competent firms in the United States, I quickly selected V. Lance Tarrance with whom I have done much work on California ballot measures, congressional and county-wide campaign. Also in their favor was the fact that they had done prior polling in California on anti-smoking measures.

Our committee has done an exceptionally fine job with volunteer spokespersons, letter writing campaigns, research and grass roots organizing. However, through repeated contact with several persons throughout the state, I learned that the tobacco companies' decision to "stay out of California" was discouraging California industries from providing their financial commitments in hopes of attracting additional funds and left a fundamental doubt by California organizations about the effects of Proposition 10 if the tobacco companies did not feel it warranted opposition. I presented these facts to the Tobacco Institute's representatives and representatives of several individual companies, presented the research done by, and on behalf of, our organization that showed that people opposed this oppressive legislation once they understood it and suggested that funds be contributed to our campaign organization to assist the educational activity. I suggested that the media be created and produced by Woodward, McDowell & Larson on contract to my committee. Our firm has worked closely with Woodward, McDowell & Larson in other 1980 campaigns (Eileen Padberg, my Vice President also worked with them in 1976), and we feel they are extremely competent at producing effective broadcast advertising.

Upon learning that certain companies would make contributions to Californians Against Regulatory Excess, I employed Woodward, McDowell & Larson and oversaw their creation, production and distribution of media spots', approved copy content and was personally on the spot when Woodward, McDowell & Larson personnel casted, shot and edited the spots.

Another part of Mr. Loveday's letter discusses direct mail, in which subject I am considered among the state's leading experts. I am appalled to see the declaration by Mr. Levine, Mr. Loveday's campaign manager, which is nothing more than a self-serving document by a campaign management firm on behalf of its client. The mailings done by Californians Against Regulatory Excess are far exceeding national response averages and now that there is momentum and the election day approaches, I expect that the return from our direct mail will increase.

I have reviewed the alleged facts on page 12 of Mr. Loveday's letter. I do not believe any of the statements are factual. The media produced by Californians Against Regulatory Excess under my direction are totally accurate and have stood the exacting scrutiny of legal counsel. For example, my match books are red and say "No on 10". My staff informs me that they have determined that the 1978 matchbooks were blue, said "Vote No on Prop 5" and contained a written message.

I cannot comment on any statements relating to Ed Grefe, an executive at Philip Morris, since I have never met this gentleman, or even seen his name before receiving Mr. Loveday's letter.

The employment of William Dwyer and Connie Draff, both previously employed by the Tobacco Institute, and then a Presidential Campaign Committee, was made by me upon learning that they had established a consulting firm in Southern California. Their advice to our volunteers has been excellent.

I confess that I do not understand the relevance of the reference to Stu Spencer, a long-time friend, and mentor of most of the young political managers in California. I believe Stu is a consultant to the Tobacco Institute since he did quiz me about how my Committee was proceeding early this summer. He is now a full-time campaign advisor and to the best of my knowledge he has had little or no contact with my staff since taking that position some months ago.

The claim that the artwork designed by me and/or my staff is not original, and is infact plagiarism from other campaigns, the Tobacco Institute, or anybody else, is sheer poppycock. You can call any of my staff and discuss how we designed every piece.

The campaign has approached many major trade associations, including the Tobacco Institute, and requested that its personnel assist in the distribution of literature throughout California. Two Tobacco Institute staff persons have met with my staff and agreed to receive and distribute literature. The value of these personnel services are periodically provided to us for our campaign reports. To my knowledge, there is no other involvement by the Tobacco Institute or any tobacco companies that has not been set forth in this declaration.

There is no question that campaign contributions are important to the success of my organization's public relations and advertising endeavers. Equally important is the volunteer work done by thousands of Californians to educate the voters about the real facts in this initiative. Many voters in California read the voter pamphlet and the editorial recommendations of their newspapers. The ballot pamphlet arguments and the education of newspapers has been exclusively through California volunteers and California staff persons hired by me.

I hope the Federal Communication Commission reads Mr. Loveday's documents carefully. You will see that they took a poll on various ways to identify spots and have filed this complaint to scare stations against my Committee.

Also please check Mr. Loveday's committee. We have been told by stations that they have received spots with no identification.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 27, 1980 in Santa Ana.

ROBERT NELSON

Exhibit K-2

Maxwell report:

Reaching a plateau

For 1980, at best, the cigarette industry should be up modestly. There is a possibility, however, that it may be slightly down.

By John C. Maxwell Jr.

The cigarette industry should end this year on an up-tick, with a volume gain of some 1 percent. However, there is one extra working day in the fourth quarter and some pipelining; thus we feel that the actual increase will be more modest.

For 1980, at best, we look for the industry to be up modestly, and there is a possibility that it may be slightly down.

1979 success story

The success story of 1979 in the cigarette industry is American Brands' Carlton, which has increased its volume almost 50 percent and is the fastest growing brand we have seen in many a year. At least part of this gain relates to a pronouncement about 18 months ago by Dr. Gio Gori, a scientist working with the Health, Education & Welfare Department, who implied that Carltons were not all that bad, and one could smoke 10 or more to one of the more popular brands, such as Marlboro, Winston or Kool.

We believe the Gori statement has helped to accelerate the trend toward low tar cigarettes, which now constitute more than 42 percent of total volume.

Further, a good portion of the action seems to be in the 5 mg-and-under area, with the introduction of Reynolds' Doral II, and Lorillard's Kent III and Triumph this year.

Movement encouraged

Some industry observers seem encouraged by this movement toward low tar, as they consider tar

---

John C. Maxwell Jr. is with Lehman Brothers Kuhn Loeb Research, New York. Reprinted with permission from the December 17 issue of Advertising Age. Copyright, Crain Communications Inc., 1979.

Estimated domestic cigarette consumption by company and brand (Billion units)

	1978 units	1979 units	Change
R. J. Reynolds			
Winston (soft pack)	48.65	43.34	(10.9)%
Winston (hard box)	2.70	2.49	(7.8)
Winston 100s	15.15	13.84	(8.6)
Winston Menthol 100s	1.20	1.02	(15.0)
Winston Lights	11.60	13.34	15.0
Winston Long Lights	5.25	6.59	25.5
Total Winston	84.55	80.62	(4.6)
Salem	21.85	18.80	(14.0)
Salem 100s	12.65	11.35	(10.3)
Salem Box	1.25	1.14	(8.8)
Salem Lights	11.25	13.35	18.7
Salem Long Lights	7.35	9.20	25.2
Total Salem	54.35	53.84	(0.9)
Vantage	12.20	12.40	1.6
Vantage Menthol	2.60	2.64	1.5
Vantage 100s	3.98	4.66	17.1
Vantage Ultra Lights	—	0.80	—
Total Vantage	18.78	20.50	9.2
Camel	5.85	5.47	(6.5)
Camel Lights	3.50	4.60	31.4
Camel Lights 100s	—	1.20	—
Total Camel	9.35	11.27	20.5
More	3.50	4.00	14.3
More Menthol	2.70	3.18	17.8
Total More	6.20	7.18	15.8
Doral	2.20	1.39	(36.8)
Doral Menthol	1.33	1.01	(24.1)
Doral II	—	1.40	—
Doral II Menthol	—	1.05	—
Total Doral	3.53	4.85	21.9
Now (hard box)	2.10	1.96	(6.7)
Now (soft box)	0.08	0.63	—
Now Menthol (hard box)	0.97	0.92	—
Now Menthol (soft box)	0.04	0.36	—
Total Now	3.19	3.89	37.4
Real	1.80	1.53	15.0
Real Menthol	0.75	0.62	—
Total Real	2.55	2.15	(15.7)
All Others	0.04	0.12	—
Total Filter	182.54	184.42	1.0
Camel	16.25	14.83	(8.7)
Total Domestic	198.79	199.25	0.2%
% Filter	91.8%	92.6%	—
% Market	32.9%	32.6%	—
Philip Morris			
Marlboro (hard box)	36.41	35.63	(1.5)%
Marlboro (soft pack)	35.91	35.12	(2.2)
Marlboro 100s (soft pack)	3.93	3.75	(4.6)
Marlboro 100s (hard box)	11.07	10.87	(1.8)
Marlboro Green	1.30	1.31	0.8
Marlboro Lights	9.31	11.18	20.1
Marlboro Lights 100s	3.08	5.28	71.4
Total Marlboro	101.01	103.34	2.3
Benson & Hedges 100s	11.49	10.00	(13.0)
Benson & Hedges Menthol 100s	7.66	7.20	(6.0)
Benson & Hedges Premium	0.12	0.12	—
Benson & Hedges Multi-Filter	11.3	8.83	—

J.A. 108

to be the main factor contributing to disease in smokers. In fact, there are some who feel that the industry had done such a good job of moving to low tar that anti-smoking forces would no longer need to be quite as adamant.

It is interesting to recall that in the congressional hearings of 1957, there was a discussion and general agreements that a "safe" tar level for cigarettes would be 20 mg, but that would be virtually impossible to obtain.

Today, well over 90 percent of the cigarettes sold in the United States have less than 20 mg.

So far as the individual companies are concerned, Philip Morris registered the best absolute gain in 1979 as it did in 1978, increasing 4.5 percent in units and one percentage point in market share.

Lorillard had the best percentage gain (8.6%) and increased its market share by 0.7 percent.

American Brands showed its first gain in more than a decade, a modest increase due primarily to the success of Carlton. TM

	1978 units	1979 units	Change
Benson & Hedges Menthol Multi-Filter	0.09	0.09	—
Benson & Hedges 100s Lights	3.69	5.28	35.7
Benson & Hedges 100s Menthol Lights	3.20	4.33	35.3
Total Benson & Hedges	27.58	27.95	1.3
Merit	9.41	12.21	29.7
Merit Menthol	2.14	2.53	18.2
Merit 100s	4.84	6.70	38.4
Merit Menthol 100s	1.35	1.79	32.6
Total Merit	17.74	23.23	30.9
Virginia Slims 100s	5.08	4.98	(2.0)
Virginia Slims Menthol 100s	4.67	4.87	4.3
Total Virginia Slims	9.75	9.85	1.0
Parliament (soft pack)	2.70	2.47	(8.5)
Parliament (hard box)	2.49	2.39	(4.0)
Parliament 100s	2.84	2.78	(2.1)
Total Parliament	8.03	7.64	(4.8)
Saratoga	1.45	1.47	1.4
Saratoga Menthol	0.70	0.69	—
Total Saratoga	2.15	2.16	0.5
Alpine	0.66	0.53	—
All Others	0.13	0.16	—
Total Filter	167.05	174.86	4.7
Philip Morris (king)	1.19	1.06	(10.9)
Philip Morris (regular)	0.20	0.19	—
Total Domestic	168.44	176.11	4.5%
% Filter	99.2%	99.3%	
% Market	27.8%	28.8%	
Brown & Williamson			
Kool	36.90	33.59	(9.0)%
Kool 100s	9.94	9.09	(8.6)
Kool Milds	5.19	5.54	6.7
Kool (hard box)	2.30	2.17	(5.7)
Kool Milds Longs	—	0.39	—
Kool Super Lights Kings	2.17	2.29	5.5
Kool Super Lights Longs	2.11	2.29	8.5
Total Kool	58.61	55.36	(5.5)
Viceroy	8.50	7.32	(13.9)
Viceroy 100s	2.58	2.03	(21.3)
Viceroy Milds	0.44	—	—
Viceroy Rich Lights Kings	0.44	1.42	—
Viceroy Rich Lights Longs	0.31	1.11	—
Total Viceroy	12.27	11.88	(3.2)
Raleigh*	6.40	5.60	(12.5)
Raleigh 100s*	3.11	2.81	(9.6)
Raleigh Lights*	1.26	1.25	(0.8)
Raleigh Lights Long*	0.29	0.63	—
Total Raleigh	11.06	10.29	(7.0)
Belair*	5.17	4.44	(14.1)
Belair 100s*	3.15	2.95	(6.3)
Total Belair	8.32	7.39	(11.2)
Fact	0.10	—	—
Fact Menthol	0.04	—	—
Total Fact	0.14	—	—
Arctic Lights	—	0.61	—
Arctic Lights Longs	—	0.68	—
Total Arctic Lights	—	1.29	—
All Others	0.08	0.05	—
Total Filter	90.48	86.26	(4.7)
Raleigh* (king)	1.05	0.95	—
Kool (regular)	0.77	0.69	—
Total Domestic	92.30	87.90	(4.8)%
% Filter	98.0%	98.1%	
% Market	15.3%	14.4%	

	1978 units	1979 units	Change
American Brands			
Carlton Filter 65s	4.50	5.44	20.9%
Carlton Filter Box 80s	0.20	0.50	—
Carlton Filter Menthol 85s	1.85	2.09	13.0
Carlton Filter 100s	2.90	5.29	82.4
Carlton Filter Menthol 100's	0.64	1.78	—
Total Carlton	10.09	15.10	49.6
Tareyton Filter 85s	5.95	5.32	(10.6)
Tareyton Filter 100s	4.60	4.07	(11.5)
Tareyton Lights 85s	1.30	1.26	(3.1)
Tareyton Ultra Low Menthol 85s	0.07	0.11	—
Tareyton Low Tar 100s	1.18	1.48	25.4
Total Tareyton	13.10	12.24	(6.6)
Pall Mall 100s	8.03	6.83	(14.9)
Pall Mall Lights 100s Menthol	0.60	0.47	—
Pall Mall Filter King 85s	0.23	0.15	—
Pall Mall Extra Lights 85s	0.39	0.23	—
Pall Mall Lights 100s	0.55	0.98	—
Total Pall Mall	9.80	8.66	(11.6)
Silva Thins 100s	1.12	0.99	—
Silva Thins Menthol 100s	0.70	0.59	—
Total Silva Thins	1.82	1.58	(13.2)
Tall 120s	0.42	0.28	—
Tall Menthol 120s	0.16	0.08	—
Total Tall 120s	0.58	0.36	—
Lucky 10s	0.08	0.08	—
Lucky Strike 100s	0.18	0.10	—
Total Lucky Strike	0.26	0.18	—
All Others	0.36	0.30	—
Total Filter	36.01	38.42	6.7
Pall Mall (king)	27.50	25.70	(6.5)
Lucky Strike (regular)	7.08	6.60	(6.8)
Herbert Tareyton (king)	0.28	0.25	—
Total Domestic	70.87	70.97	0.1
% Filter	50.8%	54.1%	
% Market	11.7%	11.8%	
Lorillard			
Kent (soft pack)	9.86	8.45	(14.3)%
Kent (hard box)	0.32	0.28	—
Kent 100s	5.30	4.70	(11.3)
Kent Menthol 100s	0.28	0.20	—
Kent III King	—	5.00	—
Kent III 100s	—	0.70	—
Total Kent	15.76	19.33	22.7
Golden Lights 85s	8.00	6.50	(18.8)
Golden Lights Menthol 85s	0.80	0.62	—
Golden Lights 100s	4.48	4.95	10.5
Golden Lights Menthol 100s	1.17	1.23	5.1
Total Golden Lights	14.45	13.30	(8.0)
True 85s	5.36	5.11	(4.7)
True Menthol 85s	2.34	2.34	—
True 100s	2.56	2.74	6.6
True Menthol 100s	1.37	1.47	7.3
Total True	11.63	11.65	0.2
Newport (soft pack)	4.83	5.40	11.8
Newport (hard box)	2.04	2.38	16.7
Newport 100s	0.89	0.98	—
Newport Lights	0.82	1.03	—
Total Newport	8.58	9.79	14.1
Old Gold Filter Kings*	2.21	1.93	(12.7)
Old Gold Filter 100s	0.42	0.36	—
Old Gold Filter Lights*	0.45	0.42	—
Total Old Gold Filter	3.08	2.73	(11.4)
Triumph	—	0.97	—
Triumph Menthol	—	0.53	—
Total Triumph	—	1.50	—
Max 120s	0.88	0.65	—

*Couponed cigarettes.

	1978 units	1979 units	Change
Max Menthol 120s	0.37	0.35	—
Total Max 120s	1.03	1.00	(2.9)
Spring 100s	0.15	0.12	—
All Others	0.02	0.04	—
Total Filter	$4.70	$9.46	8.7
Old Gold Kings*	0.16	0.13	—
Total Domestic	$4.86	$9.59	8.6%
% Filter	99.7%	99.8%	
% Market	9.1%	9.8%	

*Couponed cigarettes.

Liggett Group			
L&M (soft pack)	5.40	4.69	(13.1)%
L&M (hard box)	0.14	0.10	—
L&M 100s	1.67	1.42	(15.0)
L&M Menthol 100s	0.26	0.14	—
L&M Lights	1.30	1.24	(4.6)
Total L&M	8.77	7.59	(13.5)
Lark 85s	2.70	2.16	(20.0)
Lark 100s	1.20	0.86	—
Lark Lights	0.20	0.38	—
Total Lark	4.10	3.40	(17.1)
Eve 100s	0.69	0.59	—
Eve Menthol 100s	0.46	0.35	—
Total Eve	1.15	0.94	—
Decade	0.77	0.56	—
Decade Menthol	0.25	0.21	—
Total Decade	1.02	0.77	—
Chesterfield 101s*	0.31	0.22	—
Chesterfield 85s*	0.10	0.08	—
Total Chesterfield	0.41	0.30	—
All Others	0.10	0.10	—
Total Filter	15.55	13.10	(15.8)
Chesterfield (king)*	3.39	3.18	(6.2)
Chesterfield (regular)*	0.62	0.60	—
Total Domestic	19.56	16.88	(13.7)%
% Filter	79.5%	77.6%	—
% Market	3.2%	2.8%	—
Total Industry Consumption	604.82	610.70	1.0%
Change in Inventory	9.38	(0.70)	
Total Production	614.20	610.00E	(0.7)%

Note: Percentage change is not computed for brands selling under 1 billion units. Total production is USDA estimated.
*Couponed cigarettes.
Lehman Brothers Kuhn Loeb estimated.

Estimated domestic cigarette consumption by type and brand for 1979 (Billion units)

	Total	Plain filter	Menthol filter	Charcoal filter	Regular	King
Marlboro	103.34	102.03	1.31			
Winston	80.62	79.60	1.02			
Kool	56.05		53.35		0.69	
Salem	53.84		53.84			25.70
Pall Mall	34.36	8.19	0.47			
Benson & Hedges	27.95	15.40	11.62	0.93		
Camel	26.10	11.27			14.83	
Merit	23.23	18.91	4.32			
Vantage	20.50	17.86	2.64			
Kent	19.33	19.13	0.20			
Carlton	15.10	11.23	3.87			
Golden Lights	13.30	11.45	1.85			
Tareyton	12.49		0.11	12.13		0.25
Viceroy	11.88	11.88				
True	11.65	7.84	3.81			0.95
Raleigh	11.24	10.29				
Virginia Slims	9.85	4.98	4.87			
Newport	9.79		9.79			
Parliament	7.64	4.86		2.78		
L&M	7.59	7.45	0.14			
Belair	7.39		7.39			
More	7.18	4.00	3.18			
Lucky	6.78	0.18			6.60	
Doral	4.85	2.79	2.06			
Chesterfield	4.08	0.30			0.63	3.10
New	3.89	2.59	1.30			
Lark	3.40			3.40		
Old Gold	2.86	2.73				0.13
Saratoga	2.16	1.47	0.69			
Real	2.15	1.53	0.62			
Silva Thins	1.58	0.99	0.59			
Triumph	1.50	0.97	0.53			
Arctic Lights	1.29		1.29			
Philip Morris	1.25				0.19	1.06
Max 120s	1.00	0.65	0.35			
Eve	0.94	0.59	0.35			
Decade	0.77	0.56	0.21			
Alpine	0.53		0.53			
Tall 120s	0.36	0.28	0.08			
Spring 100	0.12		0.12			
du Maurier	—	—				
Fact	—	—	—			
All Others	0.77	0.77				
Total	$610.70	362.77	174.31	19.24	22.91	31.37
% Market	100.0%	59.4%	28.5%	3.1%	3.8%	5.1%

Cigarette output by company (Billion units)

	1978				1979 (estimated)			
Company	Domestic	Export	Total	% of domestic market	Domestic	Export	Total	% of domestic market
R. J. Reynolds	198.79	28.90	227.69	32.9%	199.25	28.00	227.25	32.6%
Philip Morris*	168.44	33.53	201.97	27.8	176.11	40.00	216.11	28.8
Brown & Williamson	92.30	16.86	109.16	15.3	87.90	18.40	106.30	14.4
American Brands	70.87	1.60	72.47	11.7	70.97	1.60	72.57	11.6
Lorillard**	$4.86	—	$4.86	9.1	$9.59	—	$9.59	9.8
Liggett Group***	19.56	3.45	23.01	3.2	16.88	—	16.88	2.8

*Includes export volume since June 26, 1978.
**As of June 22, 1977, Lorillard sold its export brands to Moorgate Tobacco Ltd., an affiliate of British-American Tobacco Co.
***As of June 26, 1978, Liggett sold its export brands to Philip Morris.

J.A. 110

Exhibit K-3

UNITED STATES TOBACCO JOURNAL

APRIL 5, 1979 Vol. 207—No. 7

Maxwell sees Philip Morris and Lorillard gaining in '79

NEW YORK: John C. Maxwell, Jr., researcher and author of the annual Maxwell Report on cigarette sales, reports in the March 5th issue of Advertising Age that only two major cigarette manufacturers can be expected to report meaningful market share and unit gains for the just-concluded year—Philip Morris, Inc. and Lorillard.

He estimates that Philip Morris will show a unit sales increase of five per cent and a market share increase of 1.3 percentage points. This would give the company a total cigarette market share of 27.8 per cent.

Lorillard, a division of Loew's, is likely to register a 4.1 per cent increase in unit sales and 0.3 percentage points in market share, Maxwell says. The latter increase would give Lorillard a total market share for 1978 of 9.1 per cent.

Among the brand success stories of 1978, Maxwell mentions R.J. Reynold's Camel Lights, an April introduction which is projected to have over a 0.6 per cent share of the market; Philip Morris's Merit which has an estimated 1978 market share of 2.8 per cent against a 1977 market share of 2.4 per cent; American Brand's Carlton, which is forecast to be up over 27 per cent and Reynold's Now, which is estimated to be up 13 per cent.

Maxwell also mentions Lorillard's Golden Lights, one of the fastest growing new brands. The Kent spin-off is expected to show a 27 per cent unit volume advance.

The cigarette analyst says that the

(Continued on page 16)

Maxwell sees Philip Morris and Lorillard gaining in '79

Preliminary estimated domestic cigaret consumption by company and brand
(Billion units)

	1977 units	1978 units	Change
R.J. Reynolds			
Winston (soft pack)	84.80	46.85	- 10.9%
Winston (hard box)	3.10	2.70	- 12.9
Winston 100s	16.95	15.15	- 10.6
Winston Menthol 100s	1.46	1.10	- 24.1
Winston Lights (85)	8.35	11.45	+ 24.6
Winston Long Lights	2.67	5.25	+ 96.6
Total Winston	88.12	84.70	- 3.9
Salem	24.55	21.75	- 11.4
Salem 100s	13.65	12.65	- 7.3
Salem Box	1.45	1.20	- 17.2
Salem Lights	8.80	11.46	+ 30.1
Salem Long Lights	5.25	7.35	+ 40.0
Total Salem	33.70	84.40	+ 1.3
Vantage	11.85	12.30	+ 3.8
Vantage Menthol	2.40	2.60	+ 8.3
Vantage 100s	3.00	3.56	+ 18.3
Total Vantage	17.36	18.46	+ 6.8
Camel	6.54	5.95	- 9.0
Camel (hard box)	0.08	0.17	—
Camel Lights	—	3.80	—
Total Camel	6.59	10.02	+ 52.1
More	3.30	3.50	+ 6.1
More Menthol	2.55	2.62	+ 2.8
Total More	5.85	6.12	+ 4.6
Doral	2.80	2.30	- 15.4
Doral Menthol	1.80	1.33	- 16.9
Total Doral	4.30	3.53	- 18.0
Now	1.93	2.20	+ 14.0
Now Menthol	0.90	1.00	—
Total Now	2.83	3.20	+ 13.1
Real	1.57	1.80	+ 14.7
Real Menthol	0.98	0.75	—
Total Real	2.47	2.55	+ 3.2
All Others	0.56	0.54	—
Total Filter	181.16	183.64	+ 1.0
Camel	17.80	16.38	- 8.2
Total Domestic	198.96	199.28	+ 0.2
% Filter	91.1 %	91.8 %	
% Menthol	33.0 %	38.8 %	

	1977 units	1978 units	Change
American brands			
Tareyton Filter 85s	7.20	6.95	- 15.9%
Tareyton Lights 85s	1.75	1.20	- 25.7
Tareyton Low Tar Menthol 85s	0.23	0.27	—
Tareyton 100s	5.58	4.60	- 17.7
Tareyton Long Lights 120s	—	1.18	—
Total Tareyton	14.57	13.10	- 10.1
Carlton Filter 85s	5.80	4.90	- 15.2
Carlton Filter 2ox 85s	0.14	0.20	—
Carlton Filter Menthol 85s	1.57	1.36	+ 17.3
Carlton Filter 100s	0.72	2.50	—
Carlton Filter Menthol 100s	—	0.84	—
Total Carlton	7.83	10.09	+ 27.2
Pall Mall 100s	8.00	8.03	- 10.8
Pall Mall Menthol 100s	0.84	0.88	—
Pall Mall Lights 100s	—	0.55	—
Pall Mall Filter 85s	0.45	0.33	—
Pall Mall Extra Lights 85s	0.50	0.39	—
Total Pall Mall	10.79	9.80	- 9.2
Silva Thins 100s	1.33	1.12	- 15.2
Silva Thins Menthol 100s	0.90	0.70	—
Total Silva Thins	2.23	1.82	- 18.4
Tall 120s	0.44	0.42	—
Tall Menthol 120s	0.18	0.18	—
Total Tall 120s	0.62	0.58	—
Lucky 10s	0.15	0.08	—
Lucky 100s	0.30	0.18	—
Total Lucky	0.45	0.26	—
All Others	0.58	0.58	—
Total Filter	37.17	36.01	- 2.1
Pall Mall (king)	28.88	27.50	- 8.9
Lucky Strike (regular)	8.00	7.08	- 11.5
Herbert Tareyton (king)	0.35	0.28	—
Total Domestic	75.02	70.87	- 5.5
% Filter	49.6 %	50.8 %	
% Menthol	12.4 %	11.7 %	

	1977 units	1978 units	Change
Philip Morris			
Marlboro (hard box)	36.46	36.86	+ 1.1%
Marlboro (soft pack)	35.51	36.32	+ 2.3
Marlboro 100s (hard box)	3.67	3.84	+ 4.6
Marlboro 100s (soft pack)	11.12	11.19	+ 0.6
Marlboro Green	1.30	1.26	- 3.1
Marlboro Lights	8.86	9.19	+ 3.8
Marlboro Lights 100s	—	2.58	—
Total Marlboro	96.90	101.25	+ 4.5
Benson & Hedges 100s	14.09	12.08	- 14.3
Benson & Hedges Menthol 100s	9.09	7.87	- 13.4
Benson & Hedges Premium	0.18	0.11	—
Benson & Hedges Multi-Filter	1.36	1.01	- 25.7
Benson & Hedges Menthol Multi-Filter	0.11	0.07	—
Benson & Hedges 100s Lights	0.74	3.51	—
Benson & Hedges 100s Menthol Lights	0.61	2.91	—
Total Benson & Hedges	26.18	27.56	+ 5.4
Merit	7.85	8.94	+ 14.0
Merit Menthol	2.15	2.35	+ 9.3
Merit 100s	3.39	4.58	+ 40.5
Merit Menthol 100s	1.33	1.36	+ 2.5
Total Merit	14.26	16.57	+ 16.0
Virginia Slims 100s	5.13	5.02	- 2.1
Virginia Slims Menthol 100s	4.39	4.57	+ 4.4
Total Virginia Slims	9.52	9.59	+ 1.8
Parliament (soft pack)	2.54	2.86	+ 2.0
Parliament (hard box)	2.83	2.51	- 4.8
Parliament 100s	2.57	2.63	+ 2.1
Total Parliament	8.44	8.32	- 1.4
Saratoga	1.46	1.37	- 6.2
Saratoga Menthol	0.71	0.69	—
Total Saratoga	2.17	2.06	- 5.5
Alpine	0.91	0.94	—
All Others	0.14	0.12	—
Total Filters	160.42	165.60	+ 3.2
Philip Morris (king)	1.32	1.21	- 8.3
Philip Morris (regular)	0.84	0.71	—
Total Domestic	162.58	169.52	+ 4.3
% Filter	98.8 %	98.2 %	
% Menthol	38.6 %	37.8 %	

	1977 units	1978 units	Change
Lorillard			
Kent (soft pack)	11.31	10.00	- 11.8%
Kent (hard box)	0.39	0.33	—
Kent 100s	0.40	0.39	- 15.0
Kent Menthol 100s	0.46	0.27	—
Total Kent	16.55	15.99	- 13.3
Golden Lights 85s	7.83	8.15	+ 2.8
Golden Lights Menthol 85s	1.01	0.82	—
Golden Lights 100s	1.89	4.53	+127.6
Golden Lights Menthol 100s	0.68	1.20	+ 76.5
Total Golden Lights**	11.81	14.70	+ 24.6
True 85s	6.12	6.33	+ 4.1
True Menthol 85s	2.23	2.33	+ 4.8
True 100s	2.31	2.54	+ 10.0
True Menthol 100s	1.23	1.36	+ 9.8
Total True	10.89	11.55	+ 6.1
Newport (King	4.36	4.79	+ 9.1
Newport Box	1.79	2.08	+ 15.7
Newport 100s	0.82	0.80	—
Newport Lights	0.31	0.84	—
Total Newport	7.29	8.50	+ 17.7
Old Gold Filter (king)*	2.61	2.26	- 13.4
Old Gold Filter 100s*	0.48	0.41	—
Old Gold Filter Box*	0.68	—	—
Old Gold Filter Lights*	0.18	0.48	—
Total Old Gold Filter	3.35	3.15	- 6.0
Max 120s	0.84	0.57	—
Max Menthol 120s	0.37	0.37	—
Total Max 120s	1.21	1.04	+ 2.8
Spring 100s*	0.18	0.14	—
All Others	—	—	—
Total Filter	52.80	55.14	+ 4.3
Old Gold* (king)	0.17	0.16	—
Old Gold* (regular)	0.05	—	—
Total Domestic	53.11	55.29	+ 4.1
% Filter	99.6 %	99.7 %	
% Menthol	0.0 %	0.1 %	

*Unpriced cigarettes.

**Effective Sept. 13, 1978, Lorillard suspended the sale of the Kent Golden Lights brand. Unit volume for its new brand, Golden Lights, and Kent Golden Lights unit volume are combined for comparative statistical purposes.

J. A. 112.

(Continued from page 1)

industry growth in 1979 will probably also come in the low-tar area as it did in 1978.

For the industry at large, Maxwell puts in 1978 gain in unit volume at 0.3 per cent, which he says "continues a five-year trend of declining growth rates for the cigarette industry." But, he adds, "we are amazed consumption trends have been even this strong, given all the adverse publicity smoking has received in recent years.

"A week of bad weather or other adverse conditions sometime in 1979 could wipe out the small consumption gain we are projecting for next year, and therefore," he says," we cannot rule out the possibility that unit volume will wind up flat or slightly down in 1979."

Maxwell notes that "the recent report by Mr. G. Matta Gori...indicating that cigarettes with a very low tar content could be smoked with relative impunity, was illuminating." He termed the overwhelming defeat of California's Proposition Five "heartening." The latter, he says, was the first time the whole tobacco controversy was put to a vote, and the answer was clear.

The switch to low-tar cigarettes (15 mg tar and below) continues; they now account for about one-third of consumption. Whether Gori's findings are going to cause people to accelerate their consumption of low-tar cigarettes is hard to tell. Certainly consumers were moving that way before the report.

Several new products – all low tar – are in test. Philip Morris has Basic, with six mg; Brown & Williamson has Artic Light with nine mg; and Lorillard has two, Kent III and Triumph, both of which contain three mg of tar.

Ahead for the industry are congressional hearings to decide whether more restrictive measures against smoking in public places should be enacted, and the June 9th Fourth World Conference on Smoking in Stockholm. Maxwell doubts that anything will come of the congressional hearings.

Preliminary estimated domestic cigaret consumption by type and brand for 1978 (Billion units)

	Total	Plain filter	Menthol filter	Charcoal filter	Regular	King
Marlboro	58.60	55.65	1.30			
Winston	48.12	45.97	1.45			
Kool	48.17		39.33	8.84		
Salem	33.79		33.79			
Pall Mall	43.89	9.98	6.84		28.98	
Kent	28.16	26.02	2.14			
Benson & Hedges	26.10	14.90	9.81	1.39		
Camel	24.37	6.58		17.80		
Vantage	17.35	14.95	2.40			
Tareyton	14.88		6.53	14.34		8.35
Merit	14.85	10.91	3.37			
Viceroy	12.95	12.95				
Raleigh	12.46	11.35			1.13	
True	10.89	7.45	3.46			
Virginia Slims	9.82	5.13	4.71			
L&M	9.29	8.99	0.30			
Belair	8.89		8.89			
Lucky	8.46	8.46		8.89		
Parliament	8.44	8.37				
Carlton	7.93	6.56	1.37	2.87		
Newport	7.29		7.29			

	Total	Plain filter	Menthol filter	Charcoal filter	Regular	King
Misty	5.88	2.30	3.58			
Chesterfield	5.10	0.40			5.05	3.85
Lark	4.36			4.36		
Doral	4.29	2.80	1.49			
Old Gold	3.57	3.58				
Now	3.55	1.59	0.96		8.06	8.17
Raid	3.47	1.57	0.90			
Silva Thins	2.23	1.32	0.91			
Sovereign	2.17	1.46	0.71			
Philip Morris	1.36				8.24	1.12
Eve	1.40	0.55	0.85			
Full	1.33	0.98	0.35			
Max 120	1.21	0.84	0.37			
Alpine	0.91		0.91			
Tall 120s	0.82	0.44	0.38			
Tijuana 100	0.19		0.19			
du Maurier	0.05	0.05				
All others	2.27	2.17				0.10
Total	603.88	346.49	179.58	33.88	27.78	26.42
% Market	100.0%	57.4%	29.7%	5.6%	4.6%	4.4%

Morgan Stanley Research Estimates.

Preliminary estimated cigaret output by company (Billion units)

	1977				1978			
Company	Domestic	Export	Total	% of domestic market	Domestic	Export	Total	% of domestic market
R. J. Reynolds	199.95	36.50	236.48	33.0%	199.39	28.00	227.39*	32.9%
Philip Morris**	159.88	29.00	188.98	26.5	169.02	33.50	201.52	27.8
Brown & Williamson	86.28	11.80	108.76	16.8	91.83	17.90	109.43	15.2
American Brands	75.02	1.80	75.62	12.4	70.67	1.80	72.47	11.7
Lorillard***	63.11	3.77	66.88	8.8	62.29	—	62.29	8.1
Liggett Group**	21.35	5.10	26.45	3.5	19.57	3.45	23.42	3.3
All Others	0.20	0.05	0.25	—	—	—	—	—

*As of June 22, 1977, Lorillard sold its export brands to Maurgare Tobacco Co., Ltd. an affiliate of British-American Tobacco Co.
**As of June 26, 1978, Liggett sold its export brands to Philip Morris.
***Includes export volume of Liggett since June 26, 1978.
Morgan Stanley Research estimates.

Brown & Williamson			
Kool	38.54	36.77	- 8.5%
Kool 100s	10.48	9.89	- 5.3
Kool Milds	5.06	5.06	—
Kool (hard box)	2.47	2.26	- 8.5
Kool Super Lights Kings	1.09	2.18	+100.0
Kool Super Lights Longs	0.91	2.10	—
Total Kool	58.35	54.26	- 1.8
Viceroy	0.39	0.33	- 11.3
Viceroy 100s	2.81	2.48	- 11.7
Viceroy Milds	0.88	0.44	—
Viceroy Rich Lights	—	0.34	—
Viceroy Rich Lights Longs	—	0.29	—
Total Viceroy	12.86	11.88	- 7.8
Raleigh	7.11	6.53	- 8.2
Raleigh 100s*	3.18	3.30	+ 0.3
Raleigh Lights*	1.03	1.31	+ 27.2
Raleigh Lights Long*	—	0.29	—
Total Raleigh	11.33	11.33	—
Belair*	5.52	5.18	- 6.2
Belair 100s*	5.17	5.22	+ 1.0
Total Belair	8.88	8.40	- 3.3
Pall	0.68	0.10	—
Pall Menthol	0.35	0.04	—
Total Pall	1.03	0.14	—
du Maurier	0.05	0.04	—
All Others	—	0.03	—
Total Filter	93.29	90.08	- 3.4
Raleigh* (long)	1.13	1.07	- 5.3
Kool (regular)	0.84	0.79	—
Total Domestic	95.26	91.93	- 3.5
% Filter	97.9 %	98.0 %	
% Market	15.8 %	15.2 %	
*Coupoined cigarets.			

Liggett Group			
L&M (soft pack)	5.75	5.41	- 5.9%
L&M (hard box)	0.20	0.14	—
L&M 100s	1.75	1.89	- 3.4
L&M Menthol 100s	0.30	0.27	—
L&M Lights	1.20	1.23	+ 2.5
Total L&M	9.20	8.74	- 5.0
Lark 85s	2.90	2.77	- 4.5
Lark 100s	1.46	1.23	- 15.2
Total Lark	4.36	4.00	- 8.1
Eve 100s	0.85	0.78	—
Eve Menthol 100s	0.55	0.48	—
Total Eve	1.40	1.18	- 15.7
Decade	—	0.90	—
Decade Menthol	—	0.30	—
Total Decade	—	1.20	—
Chesterfield 101s*	0.30	0.32	—
Chesterfield 85s	0.10	0.10	—
Total Chesterfield	0.40	0.42	—
All Others	1.30	0.30	—
Total Filter	16.53	15.74	- 5.5
Chesterfield* (long)	3.85	3.56	- 7.5
Chesterfield* (regular)	0.89	0.67	—
Total Domestic	21.28	19.97	- 6.5
% Filter	79.0 %	79.8 %	
% Market	3.5 %	3.3 %	
*Coupoined cigarets.			
All Others	0.50	—	
% Filter	90.0 %	—	
% Market	0.1 %	—	
Total Consumption	603.88	605.47	+ 0.3%
Change in Inventory	11.88	+ 7.53	
Total Production	582.00	613.000	+ 3.5

Note: Percentage change is not computed for brands selling under 31 billion units.
Total production is U.S.D.A. estimate.

Exhibit K-1

DECLARATION OF STANTON A. GLANTZ, PH.D.

I, Stanton A. Glantz, P.H.D. declare:

I am an Assistant Professor of Medicine at the University of California at San Francisco ("UCSF") and a member of the Cardiovascular Research Institute at UCSF. I am the author of Primer of Biostatistics to be published by McGraw-Hill and am also the author of Mathematics for Biomedical Applications published by the University of California Press. I am the Head of the Cardiology Computer Center at UCSF. My teaching responsibilities at UCSF include courses in statistics and mathematics. I know of my own personal knowledge that the facts contained in this Declaration are true, and I will so testify under oath if called upon to do so.

If the cigarette manufacturers joined together to act in concert in an organized effort to defeat Proposition 5 and 10, one would expect three things:

1. Considering only the tobacco companies who contributed to the No on 5 or No on 10 campaigns, the relative sizes of monetary expenditures would be in proportion to their relative shares of the tobacco market which they share among themselves. As will be demonstrated below, there is less than one chance in 10,000 that the relative sizes of the cigarette manufacturers monetary expenditures against Propositions 5 and 10 are not in proportion to their relative shares of the tobacco market.

2. The money invested in the campaign would be in proportion to share of cigarette and other tobacco products sold (with the corollary that the general public would contribute very little since it does not receive monetary gain from tobacco sales).

3. The relative sizes of contributions by the tobacco companies would be the same for the 1978 No on 5 campaign as the 1980 No on 10 campaign.

As will be demonstrated below, one can be better than 99.9% confident that the two immediately preceding statements are correct.
It is possible to estimate this level of certainty using a well-established statistical technique called linear regression which yields a correlation coefficient. If two variables (like market share and campaign expenditures) vary in perfect proportion, the correlation coefficient is 1.00; if there is no relationship, the correlation coefficient is 0. Given the correlation coefficient, it is possible to look the confidence level one can have in the conclusion of a proportional relationship in standard statistical tables.

This analysis is based on monetary contributions only. Including nonmonetary contributions would have no significant effect on the results.

I. Relationship Between Relative Market Share and Relative Contributions Among Out-of-State Tobacco Companies Who Supported No on 5 and No on 10.

Table 1 shows the market shares of tobacco sales and monetary contributions by the major out-of-state tobacco companies, other tobacco interests (e.g., local distributors), and the general public for the No on 5 and No on 10 campaigns.

Table 2 shows the relative market shares and contributions for the out-of-state tobacco companies who actually contributed to the No campaigns in 1978 and 1980.

The relative market shares were computed as follows: In 1977 the five companies which contributed to No on 5 accounted for 87.6% of the tobacco market. R.J. Reynolds accounted for 33.0% of the total market, so its relative market share among the contributing companies was 33.0%/87.6% = 37.7%. The total monetary contributions of these four tobacco companies was $5,897,656 in 1978 of which R.J. Reynolds contributed $2,351,786 or 2,351,786/5,897,656 = 39.9%. The relative market shares and expenditures of the other companies was computed in the same way.

In both 1978 and 1980 there was a .99 correlation between relative market share and relative contributions among the contributing companies. Viewed this way, the contributions are in essentially exactly the same proportions as the relative market shares. One can be more than 99.99% confident in this statement.

The only way this correlation could be improved would be if most of the companies had not given contributions in round thousands of dollars.

II. Market Share and Contributions

The information in Table 1 allows one to relate market share to dollar contributions, if all sources are included. The small contribution from the tobacco wholesalers is excluded because their share of the market is reflected in the shares of the market of the manufacturers whose products they are distributing. In any event, the amount of money is so small as to be statistically insignificant.

In both 1978 and 1980 the correlation between market share and dollars contributed to "No" campaigns is .94. There is less than one chance in 1000 of obtaining this strong a correlation by chance. Put another way, we can be more than 99.9% confident that companies (and the general public) contributed to the No campaigns in direct proportion to their market shares.

III. Relationship between 1978 and 1980 Spending Patterns

The correlation between contributions from each company in 1978 and 1980 is 1.00 (to two decimal places). This indicates that the pattern of support for the two No campaigns is virtually identical. One can be better than 99.99% confident of this statements' accuracy.

I declare under penalty of perjury that the foregoing and the tables attached hereto are true and correct and that this declaration was executed on October 14, 1980.

Stanton Glantz, Ph.D.
Assistant Professor of Medicine,
University of California at
San Francisco

TABLE 1

ALL TOBACCO COMPANIES AND OTHER CONTRIBUTORS TO NO ON 5 AND NO ON 10

	1977 Market Share	1978 No on 5 Dollars	1979 Market Share	1980 No on 10 Dollars
R.J. Reynolds	33.0%	$2,351,786	32.6%	$149,000
Philip Morris	26.5%	1,760,000	28.8%	117,000
American Brands	12.4%	0	11.6%	0
P. Lorrilard	8.8%	587,845	9.8%	41,000
Brown & Williamson	15.8%	1,170,000	14.4%	65,000
Liggett	3.5%	28,025	2.8%	0
Other Tobacco[1]	-	84,015	-	4,500
General Public[2]	0%	22,253	0%	7,837
TOTALS	100.0%	$6,003,924	100.0%	$384,337

NOTES: 1. "Other tobacco" includes in-California distributors and other tobacco-related businesses. On the assumption that market share and profits break down in proportion to market shares of major distributors, this money has been excluded from computations.

2. Includes contributions from sources with no financial interests in tobacco sales.

J.A. 115

TABLE 2

RELATIVE MARKET SHARES AND CONTRIBUTIONS BY MAJOR OUT-OF-STATE TOBACCO COMPANIES WHO CONTRIBUTED TO NO ON 5 OR NO ON 10[1]

	1977 Relative Market Share[2]	1978 No on 5 Relative Percent	1979 Relative Market Share	1980 No on 10 Relative Percent
R.J. Reynolds	37.7	39.9	38.1	40.1
Philip Morris	30.3	29.8	33.6	31.5
P. Lorrilard	10.0	10.0	11.4	11.0
Brown & Williamson	18.0	19.8	16.8	17.4
Liggett	4.0	0.5	-	-

Notes: 1. Computed so that sum of percentages for contributing firms equals 100%.

2. These five firms accounted for 87.6% of total tobacco market in 1977, therefore the relative market shares are the absolute market shares (from previous table) divided by .876.

3. Some totals do not add to 100% due to rounding.

J.A. 116

LAW OFFICES
RICHARD J. KALISH
SUITE 3180
BANK OF AMERICA CENTER
555 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE (415) 392-1800

September 26, 1980

Dear General Manager:

I represent Californians for Smoking and No Smoking Sections ("Yes on 10"), the nonprofit group that is sponsoring the initiative measure which will be Proposition 10 on the statewide November 4 ballot. This is to notify you of certain facts pertaining to commercial messages that have been or may be placed with your station by Californians Against Regulatory Excess ("Excess"), the group which is representing the Tobacco Industry in its opposition to the passage of Proposition 10.

It has come to the attention of Yes on 10 that Excess is making buys of television and radio time costing far beyond its resources as reported in Excess' most recent campaign disclosure statement filed with the California Fair Political Practices Commission. During the 1978 campaign on a similar ballot measure (Proposition 5), fully 99.9% of the $6½ million spent against Proposition 5 came from one source: the Tobacco Industry. Based on the activities of Excess in this campaign, it is apparent that the money used by Excess to purchase the messages on your station comes virtually exclusively from the Tobacco Industry.

A series of Federal Communications Commission and Federal Court decisions clearly establishes your responsibility as a broadcast station to use reasonable diligence to discover the persons or entities who are actually paying for paid political messages run by your station and to adequately disclose to the public in each such message the identities of such persons or entities. In fact, the FCC Identification Rule (set forth at 47 CFR 72.1212) actually goes even further, requiring:

> "Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence . . . could be known by the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent."

Accordingly, as in 1978, whenever the local campaign committee acts merely as a conduit for the funds of the Tobacco Industry for purchasing air time, you are obligated both to discover and to disclose the fact of the Tobacco Industry's sponsorship of the advertising so the public can know "by whom it is being persuaded." In re KOOL-TV, 26 FCC 2d 42 (1970).

You are obligated to make reasonable efforts to go beyond the apparent sponsor of the political message and to determine the true source of such advertising funds. See United States v. WHAS - TV, 385 F. 2d 784, 788 (6th Cir. 1967), and the resulting amended FCC administrative regulation at 47 CFR 73.1212, which the FCC has explained as follows:

"To clear up any misunderstanding about whether the statute and rules require a licensee, who knows, or has reason to know the facts, to adequately identify the person or persons paying for . . . the material broadcast. . . . Where a political broadcast is presented . . . by a committee which is really a campaign instrumentality for a candidate or a political organization, the public should be made plainly aware of the latter fact."

Furthermore, in view of the fact that the money supplied to Excess by the Tobacco Industry comes almost in its entirety from sources outside of California, it would be affirmative deception to attach a tagline to such Tobacco Industry broadcasts identifying the sponsor as a California entity.

Yes on 10 hopes and expects that you will perform your obligations as set forth in these regulations in the event that you choose to accept any of the political messages purchased by the Tobacco Industry through its agent, Excess. Yes on 10 is prepared to file complaints with the FCC and to take whatever other remedial action may be available if these regulations are not followed.

In addition, it has come to the attention of Yes on 10 that the magnitude of the commercial time purchases already made or about to be made by the Tobacco Industry through its agent, Excess, is presently far beyond the financial capacity of Yes on 10 to match. Although Yes on 10 fundraising is proceeding with the goal of being able to purchase some amount of air time in the final two weeks of the campaign, please take notice that Yes on 10 requests under the Fairness Doctrine (as enunciated in Cullman Broadcasting, 40 FCC 576 and Public Media Center, 72 FCC 2d 776) that your station provide Yes on 10 time for messages without charge and in a time period of comparable audience exposure to the paid messages purchased by the Tobacco Industry through its agent, Excess. Yes on 10 expects the ratio of free messages to paid messages to be no poorer than 1:2. Yes on 10 further requests that you notify it immediately should you choose to sell any time to the Tobacco Industry through its agent, Excess, so that Yes on 10 may make prompt arrangements for the Fairness Doctrine time due it. A form is enclosed for your convenience. Telephone responses may be made to:

Celia Du Bose
2054 University Ave.
Suite 600
Berkeley, CA 94704
(415) 841-3032

Very truly yours,

Richard Kalish

Richard J. Kalish

cc: Paul Loveday, Esq.
Charles Firestone, Esq.
Daniel Lowenstein, Esq.
Susan Jacoby, Esq., Center for Law and the Public Interest
Geoffrey Cowan, Esq., Center for Law and the Public Interest
Peter Hammer, Esq.
Robert de Vries, Esq.
Michael Asimow, Esq.
Andrew Schwartzman, Esq., Media Access Project.

J.A. 118

LAW OFFICES
RICHARD J. KALISH
SUITE 3180
BANK OF AMERICA CENTER
555 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE (415) 392-1800

October 3, 1980

Re: Sponsorship Identification

Dear General Manager:

In my September 26, 1980 letter to you on behalf of Californians for Smoking and No Smoking Sections ("Yes on 10"), I notified you of evidence that Californians Against Regulatory Excess ("Excess") has been acting as an agent of the Tobacco Industry in purchasing air time from your station for advertisements urging a "no" vote on Proposition 10. I also notified you of your duty under the FCC Sponsorship Identification Rules both to use reasonable diligence to discover the persons or entities who are actually paying for paid messages run by your station and to announce before or immediately after the broadcast of each such advertisement that such advertisement was "paid for by the tobacco industry".

The following facts, which are critical to your fulfilling your due diligence and other obligations under the FCC Sponsorship Identification Rules, leave no doubt that Excess is merely acting as a conduit for the funds of the Tobacco Industry for purchasing air time against Proposition 10:

1. During the 1978 campaign on a similar California ballot measure (Proposition 5), fully 99.4% of the $6½ million spent against Proposition 5 came from one source: the Tobacco Industry.

2. After that election, research by Mervin Field, who conducts the highly respected California Poll, was published concluding that:

> ". . . with Proposition 5, the fact that the tobacco industry was spending as much as it was to defeat it, became an issue. There was sort of a counter trend in the closing days of the campaign. If the tobacco industry had spent a couple million more dollars, it might have lost the election."

3. In the Proposition 10 campaign now in progress, the Tobacco Industry has implemented a calculated policy to deceive as many California voters as possible as to the very fact of the Tobacco Industry's involvement in the No on 10 campaign and as to the amounts spent by the Tobacco Industry against Proposition 10 by:

(a) utilizing a front organization with the name Californians Against Regulatory Excess;

(b) causing a professionally managed campaign operating under the name Californians Against Regulatory Excess to make numerous public and private statements either to the effect that the Tobacco Industry would not be involved in the Proposition 10 campaign or that it was uncertain whether the Tobacco Industry would be involved and that if the Tobacco Industry were not involved, Californians Against Regulatory Excess could run a viable campaign without tobacco money;

(c) causing Woodward, McDowell and Larson (the advertising firm which wrote and produced the advertisements against Proposition 5) to write and produce advertisements against Proposition 10 containing a sponsorship identification statement ("tag-line") of "Paid for by Californians Against Regulatory Excess";

(d) refraining from spending any money on advertising against Proposition 10 until September 24, 1980, the day after the cut-off date for disclosing campaign expenditures to the California Fair Political Practices Commission ("FPPC"). Under California law, all moneys spent by the Tobacco Industry through its agent Excess after September 23, 1980 need not be disclosed to the FPPC until 10 days before the election; and

(e) transferring very large amounts to Excess promptly after September 23, 1980 and causing Excess to buy very large amounts of advertising air time promptly after September 23, 1980.

4. The campaign spending disclosure statement filed by Excess with the FPPC for the period ending September 23, 1980 disclosed that 98% of the money transferred to Excess ($378,262 of a total of $389,099) came directly from the Tobacco Industry.

5. The campaign spending disclosure statement (together with copies of Excess mailings in the hands of Yes on 10) reveal that the small sums given to Excess from non-tobacco sources resulted from a mailing financed by the Tobacco Industry. The mailing requested each recipient to make a contribution of only $3.00 to Excess. Direct mail fundraising experts have advised Yes on 10 that given the economics of direct mail, such a mailing would have resulted in a net loss and that the sole purpose of such a mailing could only be for the political purpose of enabling Excess to claim that it has received numerous small contributions.

6. In the ten days since September 23, 1980 the Tobacco Industry through its agent Excess has already purchased air time costing approximately one million dollars. Yes on 10 is convinced that the exercise of reasonable diligence by your station would determine that all of such air time has been paid for by the Tobacco Industry. Yes on 10 is convinced that the exercise of reasonable diligence by your station would determine that, as of today, 99.2% of the moneys transferred to Excess have one source: the Tobacco Industry.

7. All but $3,000 of the money supplied to Excess by the Tobacco Industry comes from sources outside of California.

In light of such facts and in light of your duties set forth in the FCC Sponsorship Identification Rules, the cases and authorities interpreting those Rules cited in my September 26, 1980 letter, and in the Federal Register, Vol. 40, No. 82 at 18395, your station's concurrence in broadcasting No on 10 advertisements with a tag-line of "Paid for by Californians against Regulatory Excess" would be participation in an act of affirmative deception.

Yes on 10 hereby requests, to the extent your station accepts any of the messages purchased by the Tobacco Industry through its agent Excess, that your station require the tag-line of "Paid for by the Tobacco Industry" on all such messages.

Please give this matter your immediate attention. We intend to file a complaint with the FCC and to pursue whatever legal remedies that are available with respect to broadcast stations which continue to run the deceptive and improper tag-line after Wednesday, October 8, 1980.

Very truly yours,

Richard Kalish

Richard J. Kalish

cc: Paul Loveday, Esq.
Charles Firestone, Esq.
Daniel Lowenstein, Esq.
Susan Jacoby, Esq., Center for Law and the Public Interest
Geoffrey Cowan, Esq., Center for Law and the Public Interest
Peter Hanauer, Esq.
Robert de Vries, Esq.
Michael Asimow, Esq.
Andrew Schwartzman, Esq., Media Access Project

DOBBS & NIELSEN
Attorneys and Counselors at Law
SUITE 2500, THE ALCOA BUILDING
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111
TELEPHONE (415) 362-1840

10/14 VEH
Cons. 17(1)

October 13, 1980

Rosalyn Brassell, Esq.
Assistant General Counsel
CBS, Inc.
7800 Beverly Blvd.
Los Angeles, CA 90036

213-460-3000 x 2773

RE: No on Proposition 10 spots

Dear Ms. Brassell:

You have asked this office to provide additional information in response to a letter received from Richard J. Kalish, attorney for the Yes on 10 campaign, dated October 3, 1980 entitled "Sponsorship Identification".

Mr. Kalish's letter alleges that our client, Californians Against Regulatory Excess (hereinafter "Committee") is acting as an agent of the "Tobacco Industry". He states this fact in every other sentence, apparently on the belief that if he says it often enough, the repetition of the accusation will make it fact.

Based on all the information provided me by the Committee, we see no way that such an agency can be established.

The leadership and direction for the Committee vests in its Board of Directors, whose names and titles are set forth on the enclosed brochure. This board meets weekly, makes decisions and supervises the campaign management firm, Robert Nelson and Associates, Inc., which has been retained by the Committee to educate the voters on Proposition 10.

We cannot comment specifically on the alleged motivation and policy of the "Tobacco Industry" as stated in Mr. Kalish's letter since we have no knowledge. However, it is true that once it became evident that the stand-offish position adopted by the tobacco companies was being interpreted as acceptance of the restrictions imposed in Proposition 10, the Committee personnel were successful in soliciting contributions from various tobacco companies. In fact, a number of tobacco company representatives have quizzed our chairman extensively on the campaign being conducted by the Committee prior to making decisions on certain levels of support.

It should also be remembered that the Committee has just begun to solicit throughout California, and within the last weeks it has sent out over 25,000 contribution letters to organizations other than those already supporting the No on Proposition 10 campaign. All contributions received will be reported on the next campaign statement.

The contribution pages of the Committee's campaign report filed on September 29, 1980, disclosing all transactions through September 23, 1980, are attached for your scrutiny.

As discussed in the legal memorandum prepared by this office, which accompanied Mr. Bergland's letter to all stations in response to Mr. Kalish's original letter, the most recent and only FCC decision directly on point is the W.C.T.U.R. case which explained that the controlling factor is separateness of entities and not source of funding. The Committee's Board in its most recent meetings has reaffirmed that it will not identify its spots as being the spots of another entity or industry, because this would not be truthful.

It is obvious that Mr. Kalish is writing this second letter to all stations in preparation for filing a general complaint with the FCC against all California media, as indicated by his intimidating inclusion of nine attorneys as recipients of copies of his letter to stations. Unfortunately it has become common place these days for such diversionary tactics. As the old law school saying goes: "When you have the facts, pound on the facts, when you have a law, pound on the law, when you have neither, pound on the table", or in this case, file a complaint with the FCC.

If you wish any further information please do not hesitate to contact me, contact any of the officers or Board members of Californians Against Regulatory Excess, or contact Robert Nelson or Eileen Padberg at the Californians Against Regulatory Excess headquarters (see brochure).

Very truly yours,

Vigo G. Nielsen, Jr.
Corporate Counsel
Californians Against Regulatory Excess

VGN:sg: Encls.
cc: David Bergland
William Dohr
Robert Nelson
Louise Olsen, Western International
(w/o encls.)

bc: Mary Woodward
Chuck Bell

DOBBS & NIELSEN

Attorneys and Counselors at Law

SUITE 2300, THE ALCOA BUILDING
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111

TELEPHONE (415) 362-1940

October 3, 1980

Mr. Larry Shushan
General Sales Manager
KSDO Radio
3180 University Avenue
San Diego, California 92104

Re: No on Proposition 10

Dear Mr. Shushan:

As you requested, this letter summarizes our conversation of October 1, 1980 concerning the radio spots produced by our client, Californians Against Regulatory Excess.

In response to Mr. Kalish's letter of September 26, 1980, Western International Media is distributing to all stations a reply from the Chairman of the Board of Californians Against Regulatory Excess, to which is attached a short legal memorandum from this office explaining why the Kalish analysis conveniently leaves out the most recent case, which if included would have utterly destroyed this conclusion. A copy of both these documents is enclosed (the Bergland letter is a telecopier copy; I will send a clean copy when I receive one).

Mr. Bergland's letter sets forth the background concerning the citizens' committee and why it would be totally inappropriate to identify its spots on Proposition 10 as being anything other than its own. The editorial control rests with the Board of Directors and has not, nor will it be, abrogated or delegated to any other person or company, and certainly not to one or more contributor.

If the facts contained in these two letters are not sufficent to answer all your questions, please do not hesitate to contact me.

Very truly yours,

Vigo G. Nielsen, Jr.

VGN:rgs

cc: Tom McKnight, Esq.

bcc: Mary Woodward
Louise Olson
Eileen Padberg
Charles Bell

J.A. 124

DOBBS & NIELSEN
Attorneys and Counselors at Law
SUITE 2800, THE ALCOA BUILDING
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111
TELEPHONE (415) 362-1840

October 3, 1980

Mr. Walter Baker
Vice President, Program
KBJ-TV
5515 Melrose Avenue
Hollywood, California 90038

Re: Spots Opposing Proposition 10

Dear Mr. Baker:

This is to confirm our conversation by telephone on October 2, 1980 discussing the two television spots produced by Californians Against Regulatory Excess.

In response to a letter circulated to all stations by Richard Kalish, an attorney for the Yes on 10 Committee, the Chairman of Californians Against Regulatory Excess has replied, a telecopy of which is attached.

Also this firm has prepared a short memorandum that supplements Mr. Kalish's legal authorities and includes the most recent cases that he conveniently ignores since it totally destroys his conclusion.

The following are the five answers for which you asked for written confirmation:

1. Californians Against Regulatory Excess is a formal organization. It is a California nonprofit corporation with tax exempt status received from the Internal Revenue Service and the California Franchise Tax Board, operates pursuant to California corporate requirements and employs legal counsel to scrutinize all advertising content to insure its accuracy. The corporation is registered with the California Secretary of State as a political committee.

2. There are no Board members or persons in decisions-making authority from any tobacco company. The President of the California Tobacco & Candy Distributors Association is one of the nine Board members. The other Board members and their affiliations are set forth on the CARE stationery and described in Mr. Bergland's letter, which is enclosed.

3. The editorial control over the television spots is by Californians Against Regulatory Excess and not any of its major contributors.

4. The Board of Directors of Californians Against Regulatory Excess has not relinquished, and does not plan to relinquish, any authority over campaign expenditures made by this Committee.

5. Californians Against Regulatory Excess is a separate and distinct entity from any of the organizations supporting it, from the tobacco industry, and from any of the organizations with whom its Board members are affiliated.

I trust this information responds to your questions. If we can provide any further information, please do not hesitate to ask.

Very truly yours,

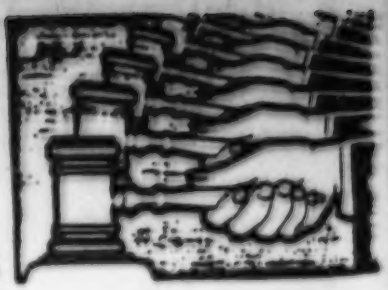
Vigo G. Nielsen, Jr.

VGN:rgs

bcc: Mary Woodward
Louise Olson
Eileen Padberg
Charles Bell

CARE

Californians Against Regulatory Excess



October 2, 1980

Dear Station Manager & Legal Counsel:

I am the Chairman of the Board and President of Californians Against Regulatory Excess, the California non-profit corporation and political committee organized to educate Californians about excess government regulation and specifically to oppose Proposition 10 on the November 4, 1980 ballot, which purpose has been registered with the California Secretary of State as required by law.

Legal counsel to our Committee has informed me that a number of stations have received a letter from Richard J. Kalish, a San Francisco attorney, arguing that radio and television advertising by our Committee is, in fact, advertising by tobacco companies and should be so identified.

The legal response to Mr. Kalish's arguments is attached. Demonstrated here, it seems clear to me that the proper identification of our radio and television spots is "Paid for by Californians Against Regulatory Excess" because our Committee, and only our Committee is, in fact, the sponsor.

Our Committee is not a front for any person, company or industry. This letter, therefore, summarizes facts about our Committee so that our advertising can be aired as we have produced it.

Early in the summer of this year, Bob Nelson, President of Robert Nelson & Associates, an eminently qualified political campaign firm, Bill Dohr, Secretary of the Republican Party, and I met to discuss what type of broad coalition could be organized to oppose Proposition 10 and what funding could be obtained. We learned early on that some tobacco companies would probably contribute some amount for seed money but that they were not planning to participate to the extent of 1978 and that they wanted to see whether there was sufficient opposition in California. We did receive some early contributions to allow us to contact others for support.

John Seymour
President
California Association of Realtors

Mary Wendt
Assistant Dir. of Patient Services
UCI Medical Center

David Bergland
Chairman
Libertarian Party National Council

Karen Peters
State Director
National Organization of Women

William Dohr
Secretary
California Republican Party

Tom Benson
Chairman
California Assoc. of Tobacco & Candy Distributors

Richard Alatorre
Member of the State Assembly

Houston I. Flournoy
Former State Controller

Organizations and affiliations for identification purposes only

1633 E. Fourth St., Suite 286, Santa Ana, CA 92701 • (714) 558-8100

J.A. 127

The three of us worked on forming a Board of Directors that represented the industries most affected by Proposition 10 and those leading citizens whose presence would indicate the breadth of opposition which we planned to mobilize. The Presidents of the California Real Estate Association, California Hotel & Motel Association, California Restaurant Association, and California Tobacco & Candy Distributors Association became Board members, as did the State Director of the National Organization of Women, the former Republican State Controller, a Democratic California Assemblyman, the Assistant Director of Patient Services, University of California at Irvine, a Past President of the American Lung Association of Los Angeles County and the President of the Peace Officers Research Association of California. This Board meets regularly to discuss campaign activities, and Bill Dohr and myself, as the senior Officers, provide direction to Bob Nelson and the staff of Californians Against Regulatory Excess. None of these Board members receives any compensation for this service. I have never had any contact with any representatives of the tobacco companies and am opposing Proposition 10 because of my strong personal motivation to oppose excess government regulation. To my knowledge, no Board member is paid anything by any tobacco company.

The Committee is properly organized as a non-profit corporation, we have received tax exempt status from the IRS and California Franchise Tax Board, and we follow all the formal and prudent operating procedures required of California corporations.

We have retained staff and consultants to draft advertising copy, but our Committee employs legal counsel to review every word and fact to ensure its accuracy. We have not delegated editorial control to anyone, certainly not to any contributor.

We are soliciting support and contributions primarily by mail and so far we have received responses from 4,387 Californians and contributions from 1,607. And recently we again solicited a number of tobacco companies.

A consequence apparently not anticipated by the tobacco industry was that their decision not to form their own committee was interpreted to mean that Proposition 10 was acceptable legislation. This made our organizing efforts much more difficult, and Bob Nelson informed these companies of these facts and the fact that the misleading information published by the proponents of Proposition 10 was not being countered adequately.

Within the last month, a number of tobacco companies have contributed to our Committee and pledged their support to defeat this vague and misleading initiative. They join the California Chamber of Commerce, the California Manufacturers Association, the Peace Officers Research Association, the National Federation of Independent Business, the Libertarian Party, of which I am the National Chairman, and the California Republican Party in opposing Proposition 10.

The Officers of Californians Against Regulatory Excess have discussed the request by Mr. Kalish. We conclude that being forced to identify our campaign advertising as a product of "The Tobacco Industry" would be inaccurate and in dereliction of our duty to our Board. Our organization plans to receive contributions from thousands of Californians and support from millions of voters and assistance from major organizations and associations throughout the state. To identify these people as a "front" for the tobacco industry is neither correct nor proper.

If you have any further questions, please do not hesitate to contact any one of the Californians Against Regulatory Excess offices, and I will try to respond as quickly as possible.

Very truly yours,

David Bergland

David P. Bergland
Chairman & President

DPB:ns

cc: Members of the Board
Californians Against Regulatory Excess

DOBBS & NIELSEN
Attorneys and Counselors at Law
SUITE 2500, THE ALCOA BUILDING
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111
TELEPHONE (415) 362-1940

TO: CALIFORNIANS AGAINST REGULATORY EXCESS (C.A.R.E)

FROM: CHARLES E. BELL, JR.

RE: F.C.C. SPONSORSHIP IDENTIFICATION RULES

DATE: OCTOBER 2, 1980

You have asked for an opinion on the issues raised by the Richard Kalish letter of September 26, 1980 to California Station General Managers and specifically (1) would the station be required to identify the primary financial contributors to C.A.R.E. as part of its sponsorship identification requirements?, and (2) would the station be required to provide free spots to the "Yes on 10" group in a 1:2 ratio under the Fairness Doctrine?

1. Sponsorship Identification

Kalish's letter cites the right cases but reaches the wrong conclusions. Under WHAS-TV and 47 CFR §73.1212, the station is required to make reasonable efforts to determine the true source of sponsored material and to "fully and fairly disclose" the sponsor's name. This requirement is satisfied if the station determines that the sponsor is a bonafide committee and that its name is not ambiguous. In KOOL-TV, 26 FCC 2d 42 (1970), the FCC ruled that identification of a bonafide committee named "A Lot of People Who Want to See Tom Grossman Elected to the U.S. Senate" did not convey that a specific entity was involved. This is not the case here.

Directly on point is the FCC's 1979 decision in V.O.T.E.R., 46 P&F Radio Reg. 2d 350, in which the Commission held that a station acted properly in refusing to identify Consolidated Edison as the "true sponsor" of spot ads purchased by a bonafide ballot measure committee, Westchester Citizens Against Government Takeover, which committee received substantial financial support from the utility company. The FCC ruled that neither the WHAS-TV diligence requirement nor the sponsorship I.D. rule requires a station to identify a primary contributor to the sponsor committee if that committee

is bonafide and exercises editorial control over its spot ads. Hence, a station would not violate the sponsorship I.D. rule by identifying C.A.R.E. alone as the sponsor.[1/]

2. Fairness Doctrine

California station are sufficiently well-versed in their Fairness Doctrine obligations that, although they may receive advice from both sides, they can be expected to meet their obligations in this area and be sustained in their exercise of discretion by the FCC.

Generally, the Fairness Doctrine, as elaborated in the Public Media Center case, does not dictate a mechanical 1:2 ratio on spot announcements. Amount of time, frequency and audience potential all bear on whether balanced coverage has been afforded. A broadcaster can avoid allegations of "imbalance" by considering these factors and by obtaining a mix of regular news or program coverage of issues along with the sale of advertising time. The Cullman doctrine would not require stations to give free spots on a 1:2 ratio; it simply admonishes the broadcaster that if one side can't afford to buy time for its views, the station "cannot let the public remain uninformed". It may have to provide some "free" time, if necessary, to one side as part of obtaining reasonable coverage of contrasting viewpoints.

Since the "Yes on 10" Committee has already announced it has produced radio and TV spots and plans to purchase time during the last two weeks of the campaign, stations will take this into consideration when evaluating Mr. Kalish's request that they provide free spots for the two weeks before they commence their buy.

CHB/bw

1/ 47 CFR §73.1212(e) requires the station to obtain information on the sponsor's board of directors or executive committee and maintain this information in its public access files. The station is not required to provide material already required of C.A.R.E by state campaign reporting laws

KDON AM FM

Sept. 30, 1980

Yes On 10
Suite 600
2054 University Ave.
Berkeley, CA. 94704

Dear Sirs:

I am writing you as Vice-President of Forrest Broadcasting Co., Inc., owners of Radio Stations KDON AM/FM, Salinas, and KBBQ-KBBY, Ventura, and this letter is in reply to your communication of Sept. 26, 1980.

In response to your request that we investigate the funds for Californians Against Regulatory Excess, we have made several inquiries. Mr. Bob Hoffman of our national rep firm, Katz Radio, Los Angeles office, spoke with the advertising agency for No On 10, Western International Media, and he received assurances that no tobacco industry money was involved. We, too, contacted Western International Media, and spoke with their Mr. Mike Hostick, who informed us that the funds came from the committee itself, and that no tobacco industry money was involved in the time buy.

We have therefore completed our obligation to make a reasonable effort to determine the true sponsorship of the messages and no further steps are necessary on our part.

Californians Against Regulatory Excess has purchased 24 one-minute announcements on KDON AM/FM and 26 one-minute announcements on KBBQ-KBBY for the period of Sept. 30, 1980 through Oct. 6, 1980. As for your request for free time under the fairness doctrine, we offer Yes On 10 eight free one-minute announcements on KDON AM/FM and nine free one-minute announcements on KBBQ-KBBY, the announcements to run within a one-week period.

We have been informed that No On 10 intends to make additional time buys. Should this occur, you would again be given one-third of their schedule at no charge.

Yours truly,

Dan Leonard

Dan Leonard

cc: Mr. Robert A. Forrest, President, Forrest Broadcasting
Mr. Scott Brody, General Manager, KBBQ-KBBY
Mr. Larry Cohn, Cohn and Marks, Attorneys, Washington, D.C.

269 Main Street • P.O. Box 1460 • Salinas, Ca. 93901 • Phone (408) 422-3365

October 3, 1980

Celia Du Bose
Yes on 10
2054 University Avenue #600
Berkeley, CA 94704

Dear Celia:

This is in response to Richard Kalish's letter of September 26th.

We find the political form from Californians Against Regulatory Excess to be in proper order.

It is our policy to allow opponents of Propositions a 1 to 4 ratio. In order to facilitate the start of your Yes on 10 schedule, I have called your office and your Los Angeles agency for copy. As you can see by the enclosed broadcast order, I have started your schedule on October 6th. The schedule is not cumulative so receiving copy is most urgent.

If I can be of further help, please call me.

Our sister station, KSFM, has not been purchased by the No. On 10 People. We'll keep you advised on this.

Sincerely,

BS:saf

Bill Stukaloff
Station Manager

cc: McKenna Wilkinson & Kittner

J.A. 133

BROADCAST ORDER

KGMS

937 ENTERPRISE DRIVE • SACRAMENTO, CA 95825

AN EQUAL OPPORTUNITY EMPLOYER

Advertiser YES ON PROP 10 Address 2054 University Avenue #600

Agency _____ Product Berkeley, CA 94704

Please broadcast for us as follows, subject to the terms and conditions herein and on the reverse side hereof:

NO. OF BROADCASTS	LENGTH OF BROADCAST	CLASS OF BROADCAST	RATE PER BROADCAST	TOTAL
30	60"	AA/A	$	no charge
			$	$
			$	$

Frequency _____ Rate Card # _____ Total This Order $ _____

Date of First Broadcast October 6, 1980 Date of Last Broadcast November 3, 1980

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
3 - 7pm	6 - 10am	10 - 3pm	6 - 10am	10 - 3pm 3 - 7pm	10am-7pm	10am - 7pm
3 - 7pm	6 - 10am	10 - 3pm	6 - 10am	10 - 3pm	10am - 7pm	10am - 7pm
same as above						
same as above						
3 - 7pm						

Special Instructions: affidavit

KGMS A/E STUHLOTT By _____

Accepted for Radio Station KGMS: _____ Firm J.A. 134

Date 10 - 3 - 80

INFORMATION TO COMPLY WITH FAIRNESS DOCTRINE

PLEASE SEND TO:
YES ON 10
2054 UNIVERSITY AVE.
SUITE 600
BERKELEY, CA 94704

OR TELEPHONE INFORMATION TO:
CELIA DU BOSE
415-841-3032
ELLIE MALLOY
213-506-5677

STATION CALL LETTERS: KPOP/KPIP

MAILING ADDRESS: Box 1110, Roseville, CA 95678

TELEPHONE: (916) 791-4111

REGARDING NO ON 10 SPOTS:

NUMBER SOLD: -0- 30s or 60s? _____

START DATE: _____ FREQUENCY/WEEK _____

END DATE: _____

REP HANDLING NO ON 10 ACCOUNT: _____

NOTE: Information which you have filed with the Fair Political Practices Commission indicates that you have been successful in raising far more money than your opponents the "tobacco companies." As noted in the demanding letter from Mr. Kalish of September 26, '80, we are indeed required to determine with reasonable diligence, the persons or entities actually involved in messages carried by our stations. Thus, before accepting either paid or public service broadcast material from your organization, we will require a complete listing of the persons and groups who have donated to your campaign, including amounts donated, accompanied by a sworn statement by a responsible official of your organization that the list is both accurate and complete.

Briefly, let me note that I am a life-long non-smoker and opponent of tobacco in any form. However, the Kalish letter of Sept.28, '80, clearly establishes the fact that you wish to be in an adversary relationship with all radio and TV stations. The rationale of such an approach is difficult to understand.

Gene Ragle
General Manager
KPOP/KPIP RADIO

CBS

CBS Inc., Television City
7800 Beverly Boulevard
Los Angeles, California 90036
(213) 852-2345
Law Department

Re: YES ON 10

Dear Mr. Kalish: October 15, 1980

This is in response to your form letters dated September 26 and October 3, 1980 received by the General Managers of KNX and KNXT. Your letter of September 26 asserts on behalf of your client, Californians For Smoking and No Smoking Sections ("Yes On 10"), (1) that the sponsorship identification of Californians Against Regulatory Excess ("No On 10") does not meet the sponsorship identification rules of the Federal Communications Commission, and (2) the "Yes On 10" is entitled to free messages to respond to any paid announcements of "No On 10" scheduled on the stations. Your October 3 letter makes additional assertions concerning sponsorship identification. For the reasons stated below, KNX and KNXT deny both assertions.

After receiving each of your letters, we contacted "No On 10" for its comments. In reply, we received the attached letters. Accordingly, we have confirmed that the requirements of the FCC's sponsorship identification rule, i.e., that stations make reasonable efforts to determine the true sponsors of broadcast material and to fully and fairly disclose the sponsor's name, have been satisfied.

KNX and KNXT have each scheduled six or six and one-half commercial minutes of time for "No On 10" to run later this month. We believe that the stations are meeting and will continue to meet their obligations under the Fairness Doctrine to present contrary viewpoints on the issues with which Proposition 10 is concerned. KNXT on October 7 and 8 broadcast an editorial in favor of Proposition 10 and on October 14 and 15, a reply by "No On 10". On October 2, KNX broadcast an editorial against Proposition 10. A reply by "Yes On 10" is expected to be aired in the near future. KNX plans on November 2 to repeat substantial portions of the editorial and editorial replies as part of a special program on the election. Both stations have presented recent news coverage of Proposition 10. KNX has in the past month run as many as four news reports containing interviews with spokesmen for both sides.

RICHARD J. KALISH, ESQ.
October 15, 1980

KNXT has broadcast news stories containing interviews with both spokesmen, on September 7 and 17. We anticipate that ongoing coverage of the Proposition will continue to be provided as the campaign progresses.

We accordingly deny your request for free time. As to your request to be notified of time purchases by "No On 10", such information is available in the stations' respective public files, which may be examined during business hours at 6121 Sunset Boulevard, Los Angeles, California.

We note your stated intention to buy time during the final two weeks of the campaign. To discuss rates and availabilities for ballot proposition advertising, we suggest that you call Mr. Dean LeGras, Sales Manager of KNX at (213) 460-3361 or Mr. Don Park, KNXT Account Executive, at (213) 460-3474.

In response to your identical form letters received by KNX-FM and by KCBS in San Francisco, "No On 10" has made no inquiries to them as to available time and no announcements are scheduled. Please be assured that those stations are fairly covering the issues presented.

Very truly yours,

Roselyn Brassell
Assistant General Attorney

Richard J. Kalish, Esq.
Bank of America Center
555 California Street
Suite 3180
San Francisco, California 94104

Enclosures

DOBBS & NIELSEN
CHARLES H. BELL, JR., ESQ.
1225 EIGHTH STREET, SUITE 550
SACRAMENTO, CALIFORNIA 95814

TELEPHONE: [916] 446-6752

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

In re:	
Request for a Declaratory Ruling by Paul Loveday, Californians for Smoking and No-Smoking Sections	CASE NO. C-10768

COMMENTS IN OPPOSITION TO DECLARATORY RULING

On behalf of Californians Against Regulatory Excess ("Committee"), the undersigned submits the following Comments in Opposition to Request for Declaratory Ruling in the above-captioned matter.

INTRODUCTION

Committee is a California nonprofit corporation and political committee, with tax-exempt status under section 501(c)(4) of the Internal Revenue Code of 1954, as amended, which was organized to educate California voters about excessive government regulation, and specifically, to oppose a California state ballot measure, Proposition 10, on the November 4, 1980 general election ballot. Additional information about Committee is provided hereinafter. (See Exhibits A - Q).

Because this is a Request for Declaratory Ruling under section 1.2 and not a complaint under section 73.1212 of the Commission's Rules and Regulations, Committee is constrained to make known its position on the contentions and allegations

contained in the request of Paul Loveday.[1] Committee has provided substantial information to the state's broadcasters in order to satisfy them, in the exercise of their due diligence requirements, of the bona fides of its organization, the membership of its Board of Directors and its editorial control over the "No on 10" campaign.

After receiving and reviewing materials provided by Mr. Loveday's attorney and by Californians Against Regulatory Excess, and on the basis of their own investigation, those stations have determined that the spots are correctly identified and that they need not identify any other entities, groups or individuals as part of their sponsorship identification requirements under section 317(a) of the Communications Act and section 73.1212 of the Commission's Rules and Regulations.[2] We believe the stations have acted properly and within their discretion in concluding that Committee is the entity, and the only entity, they must identify as sponsor of Committee's political spot advertisements.

On September 26, 1980, Mr. Loveday's organization, Californians for Smoking and No-Smoking Sections ("Yes on 10"), by and through Richard Kalish, Esq., complained to all California radio and television station General Managers that Committee was "an agent of the Tobacco Industry" and that the facts alleged would require the broadcasters to add a "tag-line" such as "an agent of the Tobacco Industry" to the broadcast advertising submitted by Committee, which is identified as "Paid for by

---

1/ Apparently Mr. Loveday does not wish to challenge the unanimous exercise of discretion of California's nearly 150 radio and television broadcasters, who have concluded that they have met their sponsorship identification responsibilities thus far with respect to the "No on 10" paid political advertising.

2/ V.O.T.E.R., __ FCC 2d__, 46 P&F Radio Reg.2d 350 (1979); U.S. v. WHAS-TV, 385 F.2d 784 (6th Cir. 1967).

Californians Against Regulatory Excess." While citing the WHAS-TV and KOOL-TV decisions, Mr. Kalish ignored the FCC's recent decision in V.O.T.E.R., supra, which is precisely on point and controlling here.

Committee responded to the first Kalish letter by sending to each station (1) a letter, dated October 3, 1980, from David Bergland, Chairman of the Board and President of Committee, which outlined the organization's purpose, organization, Board of Directors and campaign management, all of which confirmed that Committee was, and is, independent of its contributors and that the Board of Directors exercised, and exercises, editorial control over its campaign and advertising materials (Exhibit E), and (2) a memorandum from Charles H. Bell, Jr., Esq., Dobbs & Nielsen, communication counsel to Committee, on the applicable Federal Communication Commission sponsorship identification and Fairness Doctrine requirements (Exhibit F).[3/]

Upon request of individual broadcasters, Committee has provided verbal and written information, about its organization, operation and source of funds, some examples of which are found in Exhibit G.

On October 3, 1980 (prior to receipt of Mr. Bergland's response), Mr. Kalish sent a second letter to all California station General Managers substantially repeating the previous letter's demands. Mr. Kalish argues that since the major contributors to Committee are headquartered outside Califonria, the Committee should not be able to use the word "California" in its name. In addition, he alleged certain acts (and omissions -- see point

---

3/ Of course, Committee has also submitted with its political advertising orders the information required in section 73.1212(e) of the Commission's Rules, i.e., the names of the members of the Board of Directors and responsible officials of Committee.

3(d), page two) that he contended were part of "a calculated policy [by the Tobacco Industry] to deceive as many California voters as possible as to the very fact of the Tobacco Industry's involvement in the 'No on 10' campaign . . . ."[4/] The second letter also threatened a Federal Communications Commission complaint for noncompliance with the author's demand.

The conclusions reached by the "Yes on 10" committee are false - but apparently the "Yes on 10" organization feels that if it "crys wolf" long enough and loud enough, the wolf will appear. The facts remain that Committee is a bona fide organization; it exercises editorial control over its spot ads; it is not controlled by the tobacco companies, individually or collectively; it has impressive, broad-based and multi-partisan (Republican, Democrats and Libertarians) support; its Board of Directors is composed of the twelve persons listed on its campaign literature (See Exhibit H; but see Exhibit Q).

Committee has wholly and fairly disclosed its campaign contributions under California's campaign reporting and disclosure law (Exhibits I & J), and will continue to do so. The fact that four tobacco companies are the major contributors is at present a fact that has been widely publicized throughout California (Exhibit K).[5/]

4/ Apparently, many California broadcasters (familiar with the political rhythms and rhymes of California ballot measure contests) concluded this was nothing more than rhetoric. Once again, Committee responded fully to those broadcasters who had inquired about the allegations (Exhibit G).

5/ California Government Code, sections 84000 et seq. requires pre-election filing of campaign reports. The Commission's sponsorship identification requirements were not intended to require broadcasters to provide that manner of disclosure in advertising.

THE COMMISSION'S V.O.T.E.R. DECISION
IS PROPER AND CONTROLLING IN THIS CASE

Mr. Loveday cites the KOOL-TV, WHAS-TV and National Welfare Rights cases, and attempts to establish that they support his "front group/agent" theories. On the other hand, he attempts to dismiss the most significant case, one which is precisely applicable as the standard for Commission action and one that was decided with full consideration of the cases cited by Mr. Loveday.

Less than a year ago, the Commission had occasion to consider by way of a complaint the precise issue raised here.

In, V.O.T.E.R., supra, the complainant alleged that a group named "Westchester Citizens Against Government Takeover," ("Citizens"), (a committee organized to oppose a county ballot proposition that proposed that the government purchase the privately-owned public utility company, Consolidated Edison Company of New York) was not in fact the true sponsor. The facts in that case were on all fours with this case: (a) Consolidated Edison contributed a substantial amount and percentage of the total contributions to Citizens; (b) the complaintant alleged that Citizens was an agen of Consolidated Edison, by virtue of these contributions; and (c) Citizens responded that it was a bona fide group and had paid for and controlled the content of its advertisements. After reviewing these contentions, the Commission concluded that "the sole issue posed by [the] complaint is whether any licensee who failed to add or substitute an identification of Consolidated Edison violated section 317, or the Commission's implementing rules."

On that foundation, the Commission held:

> "Under the policies described above, we cannot prohibit any licensee who chooses to do so from adding the identification you urge. However, we cannot conclude that any licensee, in evaluating the facts before it regarding the advertisement, failed to exercise reasonable diligence by accepting the representations of Westchester Citizens. The substantial proportion of Con Edison's role in

> Westchester Citizens' funding might suggest a basis for further inquiry to some licensees. On the other hand, the Westchester Citizens' bylaws, represented assertion and editorial control over these advertisement, and the weight of precedent suggest that those licensees who accepted Westchester Citizens' advertisements as other did so in good faith and without closing their eyes to any attempted misrepresentation. Indeed, some licensees may conclude, either on the facts thus far provided by the Westchester Citizens, or additional information not now before us, that, in its (sic) view Con Edison alone is the appropriate identification."

The Commission's ruling leaves considerable discretion to the broadcaster's reasonable, good faith judgment. There is no reason for the Commission to modify the standard, and where the broadcaster has made diligent efforts to ascertain the bona fides of the sponsoring entity, the Commission should not substitute its judgment for that of the licensee.

THE REQUEST, IF GRANTED, WOULD FUNDAMENTALLY ALTER THE COMMISSION'S CAREFULLY DRAWN STANDARD OF COMMISSION REVIEW AND BROADCASTER RESPONSIBILITY

Here, Mr. Loveday relies extensively on cases decided prior to V.O.T.E.R., and noted by V.O.T.E.R., and is, in fact, requesting the Commission to pass on the bona fides of Californians Against Regulatory Excess. By attempting to paint a black picture, Loveday is asking the Commission not only to say that Committee is neither bona fide nor independent but is wholly a sham, but also that the standard for reviewing such matters in the future should be for the Commission to pass on the bona fides of such committees.

Such a conclusion would upset the careful balance drawn by the Commission between its authority to determine and explain the requirements of the Communications Act and the exercise by broadcasters of fundamental responsibilities, in their reasonable discretion, to serve the public interest.

It would be unwise for the Commission to assume the responsibility to determine the bona fides of specific groups, individuals or entities which may purchase broadcast time to air their views on the many political and social issues which arise from time to time. The Commission's Memorandum Opinion and Order re Sponsorship Identification Rules, ("1975 Notice"), Federal Register, Vol. 40, page 18395, places responsibility on the broadcaster to exercise reasonable diligence to determine the identity of who paid for sponsored material (Id. at 18398). To shift that responsibility to the Commission would literally place the Commission in the "thicket" of all political campaigns on issues, like those that occur twice every two years in states such as California, which afford citizens the opportunity to vote on controversial referenda and initiatives. Protagonists and antagonists could be expected to deluge the Commission with documents, affidavits, court transcripts, and as Mr. Loveday's complaint demonstrates, special polls, expert testimony of campaign specialists and the like, little of which the Commission is qualified to evaluate or is relevant to its fundamental purposes under the Communications Act.[6/]

Licensees in California, being more familiar with California ballot measure campaigns, would themselves be subjected to increased burdens if the Commission grants Mr. Loveday's Request.

6/ The regulatory "distortion" that could occur, were the Commission to assume the responsibility Loveday proposes, finds an analogy in the history of the Commission's involvement with cigarette and other product advertising under the Fairness Doctrine. WCBS-TV, 8 F.C.C.2d 381, stay and reconsideration denied, 9 F.C.C.2d 921 (1967), aff'd sub. nom., Banzhaf v. F.C.C., 405 F.2d 1082 (D.C. Cir. 1968). See Fairness Report, 48 F.C.C.2d 1, 10 and fn. 21 (1974). Here, as there, the Court of Appeal's comment that "the Commission walks a tightrope between saying too much and saying too little" is appropriate. The Commission, in V.O.T.E.R., supra, has properly defined the line between Commission interpretation and licensee responsibility.

For they, too, would be subjected to a requirement to review the kind of detailed material that courts and other judicial agencies must review (as noted above). They would be asked not to "pierce the corporate veil" (Request, pp. 21-22) but to render a decision based upon scrutiny far beyond the "due diligence" required by section 73.1212. This would undoubledly require considerable attention of legal counsel by stations in the major markets as well as smaller stations. The inevitable effect of all of this would be to increase the likelihood that broadcasters would simply be forced to comply with any complaint regarding sponsorship identification. Legally or administratively, therefore, the Loveday Request, if granted, would go far beyond the "burdens [that] must be imposed on the licensee in this area," (Federal Register, Vol. 40, at 18398) and the Commission should decline to modify either its V.O.T.E.R. standard or its regulation regarding the licensee's "reasonable diligence" requirements. 47 C.F.R. § 73.1212(e).

PRESENT IDENTIFICATION OF SPOTS IS FACTUAL; IDENTIFYING SPOTS AS TOBACCO INDUSTRY IS FALSE AND MISLEADING.

Californians Against Regulatory Excess does not deny the funding that has been received so far come from tobacco companies and has issued two releases on these facts. Committee does not believe that the source of contributions alone dictates the identification requirement. Committee is not a conduit for the tobacco companies but is a bonafide organization (Exhibits E and O), is independent of tobacco companies and does exercise control and direction over its own advertising (Exhibit O).

On the Board of Directors of Committee are David Bergland, Santa Ana attorney and chairman of the Libertarian Party of the United States (Mr. Bergland serves as Chairman and President of Committee), Richard Alatorre, a Democratic State Assemblyman from the Los Angeles county area, Robert S. Begley, President, California

Hotel and Motel Association, Tom Benson, Chairman, California Association of Tobacco and Candy Distributors, James Collins, President, California Restaurant Association (see Exhibit Q), William Dohr, Orange County Businessman and Secretary of the California Republican Party, Houston I. Flournoy, former California State Controller and Gubernatorial Candidate and now a dean at the University of Southern California, Richard Lucero, President, Peace Officers Association of California, Karen Peters, State Director, National Organization for Women, John Seymour, President, California Association of Realtors, Earl Smith, Past President, American Lung Association of Los Angeles County and Marv Went, Assistant Director Patient Services, University of California at Irvine Medical Center. This is a working board (Exhibits M and N) of a bonafide corporation. The only person on the board that has any direct involvement with tobacco companies is Tom Benson.

The Committee Board of Directors met after receiving a copy of the first Mr. Kalish letter and resolved that the board would be condoning a falsehood to identify its spots as being the work of tobacco companies.

MR. LOVEDAY'S "FACTUAL DEMONSTRATION" IS NEITHER FACTUAL NOR DEMONSTRATIVE

Mr. Loveday's document is a repetition of a number of facts, half-truths and false statements. It is true that there are very few firms who manage, and consult on, ballot measure campaigns, provide legal and accounting to such committees or provide campaign polling and research. Consequently, the "web" would be true for most Califonria campaigns, including those with thousands of separate unrelated contributors, like the No on Proposition 9 (anti-Howard Jarvis) campaign in June, 1980. However, this is neither sinister or unusual and does not prove or disprove the bonafide status of a citizens committee.

Since the Commission has requested expeditious reply (two days) to Mr. Loveday's voluminous documentation (received by us on October 22), each and every point of Mr. Loveday's letter is not rebutted, although on those matters about which the Committee has information, there is a full rebuttal. The Commission is respectfully requested to refer to the declarations of Robert Nelson, Richard Woodward and Eileen Padberg (Exhibits O-Q), and to some extent the other exhibits, as substantiation for the following conclusions:

(1) The campaign management of Committee is independent of any and all tobacco companies and any of its trade assocations.

(2) The use by Committee of some experts who have previously worked on anti-smoking campaigns, which employment was sometimes by design and sometimes by coincidence, is demonstrative of good management and not of conspiratoral intentions.

(3) The allegations that Committee's campaign is similar to the 1980 Dade County Florida anti-smoking campaign is not at all substantiated and is false.

(4) The allegations that Committee's campaign is similarly to the California Proposition 5 campaign in 1978 is correct. Committee acknowledges that it is appealing to the residue of voter disapproval of Proposition 5.

CONCLUSION

The Commission should not substitute its judgement for that of stations. Mr. Loveday fails to prove his case, but he has presented questions that if unanswered might have left in question the bona fide status of Committee in the minds of some persons. But Committee has answered those allegations and confirmed its independent status. Mr. Loveday's Request should be denied.

October 24, 1980

Respectfully submitted,

By Charles H. Bell Jr.
CHARLES H. BELL, JR. ESQ.
Counsel, Californians Against
Regulatory Excess

Support Wanes for Prop. 10

By Mervin D. Field

If current public opinion trends continue, Proposition 10 — the smoking and no smoking sections initiative — could meet the same fate as Proposition 5 the unsuccessful 1978 indoor clean air initiative.

In a statewide survey completed last week, the California Poll found that the plurality of registered voters in favor of Proposition 10 had narrowed to 9 points, down sharply from the 34- and 36-point leads found in earlier surveys.

Proposition 10

	Oct.	Sept.	July
Yes	53%	65%	66%
No	44	31	30
Undecided	3	4	4

The current pattern of voter perception and attitudes toward Proposition 10 is similar to the situation two years ago when a stronger anti-smoking initiative, Proposition 5, was on the ballot. At that time California Poll surveys taken early in the campaign found the public heavily in favor of the concept of putting limitations on smoking in enclosed public plates. However, opponents of Proposition 5 spent an unprecedented $6 million on the campaign and were able in the end to persuade a majority to vote against the measure.

This poll is based on a representative cross-section of 857 California adults registered to vote. The poll was conducted by phone October 15 through October 18 and has a sampling tolerance of plus or minus 4 percent.

© 1980 The Field Institute

J.A. 148

Exhibit L-1

Tobacco Industry Is Worried by Findings Of Its Poll, Mistakenly Released by FTC

By Burt Schorr
Staff Reporter of The Wall Street Journal

WASHINGTON—The tobacco industry is worried that efforts to curb smoking in public places may severely reduce cigaret sales.

The industry's concern was spurred by findings of a confidential study of public attitudes about cigaret smoking conducted for the Tobacco Institute by Roper Organization Inc. The study, completed last year, shows that the fears of nonsmokers about inhaling cigaret smoke have risen sharply in recent years—a fact that represents "the most dangerous development to the VIABILITY OF THE tobacco industry that has yet occurred."

The Roper findings were discovered by the Federal Trade Commission as part of its investigation of cigaret advertising practices. And the FTC mistakenly has released copies of the survey.

The survey, the sixth biennial study of public attitudes on smoking by Roper, produced a number of results that would indicate still more troubles are on the way for cigaret makers. It found, for example, that "[favorable attitud:] toward the tobacco industry are at thei[r] lowest ebb," and that "more people say they would vote for than against a political candidate who takes a position favoring a ban on smoking in public places."

However, the principal focus of the 1978 report, which was based on interviews with 2,500 people, is on the fear and annoyance felt by nonsmokers about cigaret smoke.

In response to the question of whether smoking is hazardous to the health of nonsmokers, 58% answered that it probably is. That compared with only 46% who thought so four years earlier. Conversely, the latest survey found that only 33% of those polled thought smoking probably doesn't affect nonsmokers; in the 1974 survey, 48% held that opinion.

A majority of people already favor separate facilities for smokers and nonsmokers in restaurants, and other public places. The study states the new data suggest that the "pressure for segregated facilities will change from a ripple to a tide . . . as the anti-smoking forces succeed in efforts to convince nonsmokers that their health is at stake, too," the polling concern warned.

To combat the antismoking sentiment, the tobacco industry earlier this year began an advertising campaign. One ad carried in nationwide publications remarked that "all of us are losers when any one of us is denied freedom of choice."

William Kloepfer, senior vice president of the Tobacco Institute, said the institute received "several thousand" letters as a result of its campaign. "Somewhere between a vast and slight majority" expressed resentment over being subjected to cigaret fumes in public places, Mr. Kloepfer said.

The response appeared to confirm the Roper study, which found bigger majorities than ever in favor of segregating smokers and nonsmokers. For train stations, airports and bus stations, for example, 82% of those polled favored such separation compared with 54% in 1978; for work places, 61% compared with 52%; at indoor sporting events, 73% compared with 67%; and eating places, 73% to 57%.

In addition, a mere 27% of those queried rated the tobacco industry "very interested" or "moderately interested" in "the safety and welfare of the people who use their products or services." Only the liquor industry rated lower with 25%. The asbestos industry scored 32%; the oil industry, 44%; the chemical industry, 47%; the food industry, 65%; the auto industry, 65%; and the drug industry, 69%.

J.A. 149

EXHIBIT L-2

A DECLARATION CONCERNING PUBLIC OPINION RESEARCH

I, Larry Levine, declare:

1. I am a professional election campaign manager and have worked at said profession exclusively for more than ten years. I am the owner of The Campaign Organization, 6308 Woodman Avenue, Suite 203, Van Nuys, CA 91401, an election campaign management firm.

2. As a service provided to clients, my firm has conducted numerous public opinion research surveys among registered voters and has commissioned numerous additional public opinion research surveys to be conducted in behalf of clients by other professional firms specializing in such research.

3. The Campaign Organization has commissioned the firm of Fairbank/Canapary/Maullin to conduct a public opinion survey in behalf of Californians for Smoking and No Smoking Sections in research of voter attitudes concerning Proposition 10 on the November 4th California ballot. The Campaign Organization has used the services of the Fairbank firm for public opinion research in the past and has always found the work of this firm to be accurate in measuring public opinion.

4. Included in the public opinion survey currently being conducted by the Fairbank firm for Californians for Smoking and No Smoking Sections is a question that reads as follows:

> If you knew very little about a California ballot proposition, would you be more inclined or less inclined to vote for a proposition that was endorsed by _____? (ASK FOR EACH - ROTATE START)

	MORE INCLINED	LESS INCLINED	MAKES NO DIFFERENCE	DON'T KNOW
AMERICAN CANCER SOCIETY	1	2	3	4
LLOYD BRIDGES	1	2	3	4
DOCTORS AND MEDICAL ASSOCIATIONS	1	2	3	4
HEART ASSOCIATION	1	2	3	4
TOBACCO INDUSTRY	1	2	3	4
CALIFORNIANS AGAINST REGULATORY EXCESS	1	2	3	4
CALIFORNIA LUNG ASSOCIATION	1	2	3	4
NOBEL PRIZE WINNERS	1	2	3	4

BAR OWNERS	1	2	3	4
CHAMBER OF COMMERCE	1	2	3	4
NATIONAL ASSOCIATION OF SENIOR CITIZENS	1	2	3	4
LOCAL CHIEFS OF POLICE AND SHERIFFS	1	2	3	4
UNITED STATES SURGEON GENERAL	1	2	3	4

This question is among 50 being asked in the survey which is now in progress.

5. A snap talley of partial results from this question reveals that 67.2 percent of those surveyed said they would be less inclined to vote for a proposition endorsed by the tobacco industry; 4.2 percent said they would be more inclined to vote for a proposition endorsed by the tobacco industry; 25.2 percent said it would make no difference; and 3.3 percent said they don't know. The same voters had a more neutral opinion of Californians Against Regulatory Excess as an endorsing entity, with 55.8 percent saying it would make no difference or that they don't know, while 28.9 said they would be less inclined and 15.1 said they would be more inclined. This snap tally is based on 238 completed interviews with voters, a sampling large enough to allow a projection that the final results on this question will closely parallel the partial results cited above. From this sample it is clear that the endorsement of the tobacco industry generates a far greater negative reaction and a far smaller positive reaction than does Californians Against Regulatory Excess.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration is executed on October 7, 1980.

Larry Levine
Manager/Consultant
The Campaign Organization

DECLARATION OF EILEEN PADBERG

I, EILEEN PADBERG, declare:

I am a Vice President of Robert Nelson and Associates, Inc., the campaign firm retained to manage the opposition campaign to Proposition 10. When I was assigned to this account, Bob Nelson had already begun to organize the Board of Directors and a number of persons had already agreed to serve. Mr. Nelson had contacted:

David Bergland,	Chair, Libertarian National Committee
John Seymour,	President, California Association of Realtors
Bill Dohr,	Secretary, California Republican Party
Marvin Wendt	Assistant Director Patient Services, UCI Medical Center

Once I began working on organizational matters of Californians Against Regulatory Excess, I contacted the following persons to serve as directors:

Karen Peters	State Director, National Organization for Women
Richard Lucero	President, Police Officers Research Association
Houston Flournoy	Former Californian State Controller
James Collins	President, California Restaurant Association
Robert Begley	President, California Hotel & Motel Association

I am very disturbed to learn that James Collins, President of the California Restaurant Association, claims that he was never contacted by us to serve on the Board of Directors. On August 15, 1980, I spoke with Mr. Collins at his place of business in Los Angeles. At that time he indicated his willing-

ness to serve on the Board of Directors and to assist Californians Against Regulatory Excess in any way he could. He also indicated that while he was willing to serve on the Board of Directors and to have his name appear on campaign literature in that regard, that because of time constraints he would appreciate all communications and correspondence be directed to Stan Kiker, the Executive Director of the Association in Los Angeles. A memo was sent on August 15, 1980 to all Californians Against Regulatory Excess Board of Directors members including Mr. Collins. (Exhibit M.)

On September 12, 1980, another notice of meeting was sent to the members of the Board of Directors of Californians Against Regulatory Excess. This memorandum was sent, pursuant to Mr. Collin's instructions, to Mr. Kiker. On September 26, 1980, another memo was sent to the Board of Directors. (Exhibit M.) This memo was sent to Mr. Kiker.

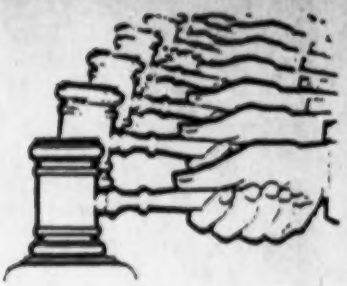
Four meetings of the Californians Against Regulatory Excess have been held since the inception of the committee. (See Exhibit N). A telephonic meeting was held of the Board of Directors on October 6, 1980. Mr. Kiker fully participated in the Board meeting held that day. Because of other commitments, Mr. Kiker was unable to participate in the telephonic Board of Directors' meeting held on October 13, 1980 and October 20, 1980.

I was therefore shocked to be told that one of our Board members did not understand the involvement with our committee and am surprised that this was not brought to our attention earlier since one million brochures have been distributed with his name on them including copies sent to him and

his organization. (See Exhibit H.)

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 27, 1980 in Santa Ana, California.

EILEEN PADBERG



Californians Against Regulatory Excess

DATE: July 27, 1980

TO: C.A.R.E. Committee

FROM: David Bergland, Chairman
Proposition 10 Campaign

SUBJECT: UPDATE

PRESS CONFERENCE

On Monday, August 4, Californians Against Regulatory Excess will file a lawsuit challenging statements regarding Proposition 10.

This filing will coincide with a press conference being held at 10:00 a.m. at the Los Angeles Press Club.

The basis of our lawsuit is that the proponents' arguments and rebuttals are false and misleading.

The initiative entitled, "Smoking and No Smoking Sections Initiative" is cearly misleading in that it does not deal with or provide guaranteed smoking sections. In fact, the initiative indicates quite clearly that "facilities and areas in which it would be impractical to create smoking and no smoking sections . . . shall be designated in their entirety as no smoking areas."

Passage of Proposition 10 will not guarantee that smokers and non-smokers have separate and equal sections.

CARE COMMITTEE MEETING

Please mark your calendars for Friday, August 8, 1980, for a meeting of the CARE Committee. The meeting will begin promptly at 10:00 a.m. and end promptly at 2:00 p.m. Lunch will be served.

Agenda items will include a strategy update, goals and objectives of the campaign, CARE financial situation, and an organizational update.

The CARE campaign staff will handle any problems of transporation, etc.

[illegible] Seymour
[illegible]

David Bergland
Chairman
Libertarian Party Executive Council

Karen Peters
State Director
National Organization for Women

Wilson Dohr
Secretary
California Republican Party

Tom Bensen
Chairman
California Assoc. of Tobacco & Candy Distributors

Richard Alatorre
Member of the State Assembly

Houston I. Flournoy
Former State Controller

Organizations and affiliations for identification purposes only

FOR YOUR INFORMATION

Californians Against Regulatory Excess

August 15, 1980

TO: C.A.R.E. COMMITTEE

FROM: David Bergland
Eileen Padberg

Enclosed you will find the newest version (after the court hearing on Monday, August 11) of the Proposition 10 arguments filed with the Secretary of State's office. I have enclosed the old argument with the noted changes and a new argument on Proposition 10 letterhead.

Also enclosed is a Proposition 10 pamphlet that has just come off the presses (more will be available to you soon); an endorsement card (which we would like you to fill out and return to us as soon as possible); and the latest "fact sheet" about Proposition 10.

With regard to a C.A.R.E. meeting -- we must get together very soon (required by our Bylaws). We are going to try again to reschedule. Please mark your calendars for Tuesday, August 26th. The meeting will be held at the Airporter, across from the Orange County airport, 10:00 a.m. until 2:00 p.m. Lunch will be served.

I will be calling you to verify your attendance.

John Seymour
President
California Association of Realtors

Mary Wendt
Assistant Dir. of Patient Services
UCI Medical Center

David Bergland
Chairman
Libertarian Party Nat'l Council

Karen Peters
State Director
National Organization of Women

William Dohr
Secretary
California Republican Party

Tom Benson
Chairman
California Assoc. of Tobacco & Candy Distributors

Richard Alatorre
Member of the State Assembly

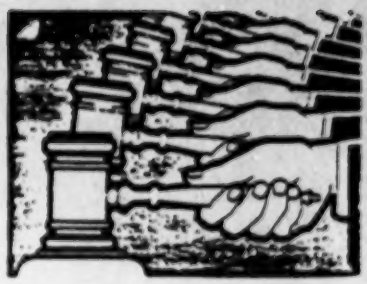
Houston I. Flournoy
Former State Controller

Organizations and affiliations for identification purposes only

J.A. 156

CARE

Californians Against Regulatory Excess



FOR YOUR INFORMATION

DATE: September 12, 1980

TO: CARE Board Members

FROM: Eileen Padberg

RE: CARE Board of Directors Meeting

A CARE Board of Directors meeting will be held Thursday, October 2, 10:00AM - 2:00PM, with lunch, at the Marriott Hotel, 5959 Century Blvd. in Los Angeles.

Transportation to and from the meeting will be available from No on 10 offices.

Please RSVP to Sandy Hetrick, CARE campaign secretary, at 558-8100.

John Seymour
President
California Association of Realtors

Marv Wandt
Assistant Dir. of Patient Services
UCI Medical Center

David Bergland
Chairman
Libertarian Party Nat'l Council

Karen Peters
State Director
National Organization of Women

William Dohr
Secretary
California Republican Party

Tom Berson
Chairman
California Assoc. of Tobacco & Candy Distributors

Richard Alatorre
Member of the State Assembly

Houston I. Flournoy
Former State Controller

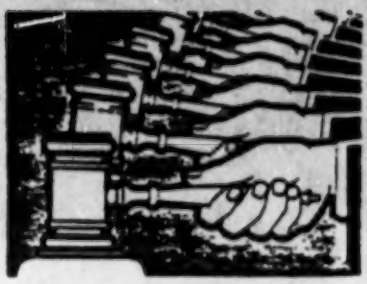
Organizations and affiliations for identification purposes only

1633 E. Fourth St., Suite 286, Santa Ana, CA 92701 • (714) 558-8100

J.A. 157

CARE

Californians Against Regulatory Excess



Date: September 26, 1980

To: CARE Board Members

From: David Bergland

Re: CARE Board of Directors Meeting

Due to schedule conflicts with many of the Board members, the October 2 meeting in Los Angeles has been postponed.

A notice of the next meeting will follow. Please make every effort to adjust your schedule for the next meeting.

John Seymour
President
California Association of Realtors

Marv Wendt
Assistant Dir. of Patient Services
UCI Medical Center

David Bergland
Chairman
Libertarian Party Nat'l Council

Karen Peters
State Director
National Organization of Women

William Dohr
Secretary
California Republican Party

Tom Bensen
Chairman
California Assoc. of Tobacco & Candy Distributors

Richard Alatorre
Member of the State Assembly

Houston I. Flournoy
Former State Controller

Organizations and affiliations for identification purposes only

1633 E. Fourth St., Suite 286, Santa Ana, CA 92701 • (714) 558-8100

DECLARATION OF BARRY FADEM

I, Barry Fadem, declare:

I am a duly elected Assistant Secretary of Californians Against Regulatory Excess, a California non-profit corporation.

I have attended all Board meetings or reviewed the Minutes of Board meetings which I did not attend and can provide the following information of those who attended each meeting:

August 26, 1980

David Bergland
William Dohr
Tom Bensen
Karen Peters
Earl Smith
Marv Wendt

October 6, 1980

David Bergland
John Seymour
Marv Wendt
William Dohr
Stan Kiker (representing James Collins)
Robert Begley
Richard Lucero

October 13, 1980

David Bergland
Tom Bensen
Karen Peters
William Dohr
Houston Fluornoy
Earl Smith

October 20, 1980

Karen Peters
William Dohr
Earl Smith
Houston Fluornoy
A representative for Assemblyman Alatorre
Richard Lucero

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 24, 1980 in San Francisco, California.

Barry Fadem

BARRY FADEM

Exhibit T-2

DECLARATION OF PAUL LOVEDAY

I, Paul Loveday, declare:

I am an attorney licensed to practice in all the courts of California. My business address is Two Embercadero Center, San Francisco, California 94111. I know of my own personal knowledge that the facts contained in this Declaration are true, and I will so testify under oath if called upon to do so.

On Friday, October 10, 1980, I participated in a conference call with Stan Kyker, Executive Director of the California Restaurant Association and James Collins, President of the California Restaurant Association.

During such conversation, Stan Kyker confirmed that James Collins was the incumbent President of the California Restaurant Association.

During such conversation Mr. Collins stated that he is not a member of the Board of Directors of Californians Against Regulatory Excess ("Excess"), that he had never received a notice of an Excess Board meeting nor attended an Excess Board meeting, that he has avoided any discussion of No on 10 strategy.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 16, 1980.

Paul L. Loveday

PAUL LOVEDAY

J. A. 160

The Campaign Organization
6308 Woodman Ave., Suite 203
Van Nuys, CA 91401
(213) 873-1317

A DECLARATION CONCERNING DISAVOWAL OF TOBACCO INDUSTRY INVOLVEMENT

I, Larry Levine, declare:

1. I am a professional election campaign manager and have worked at said profession exclusively for more than ten years. During that time I have had extensive experience in handling press and media relations for numerous election campaigns.

2. Prior to becoming involved in professional election campaign management, I worked for 12 years as a newspaper reporter and political writer and editor for newspapers and wire services, and prior to that I majored in journalism through my high school and college education. Thus I am trained and experienced in reviewing and understanding news reports, interviews and coverage.

3. The Campaign Organization has been retained by Californians for Smoking and No Smoking Sections to conduct and manage the campaign in behalf of Yes votes on Proposition 10 on the November 4, 1980, California state ballot. As owner of The Campaign Organization, I am personally involved in management of this campaign on a daily basis and have thorough and complete knowledge of campaign activities.

4. On or about September 8, 1980, Helen Johnson, producer of the program "News Conference," a regular public affairs program broadcast by KNBC television in Burbank serving the Los Angeles area, phoned the YES ON 10 headquarters to ask that a representative be designated to speak for the ballot proposition in a television debate to be video taped at KNBC on September 12, 1980, and broadcast on that station at a later date. Ms. Johnson informed me that she had made a request of Californians Against Regulatory Excess for a representative to speak against Proposition 10 and that they had designated Karen Peters as their representative.

5. On September 12, 1980, a debate on Proposition 10 was video taped at KNBC television studios in Burbank, California. Appearing were Los Angeles City Councilman Zev Yaroslavsky representing YES ON 10 and Karen Peters representing Californians Against Regulatory Excess. Station reporters Warren Olney and Saul Halpert conducted the interviews.

6. The program discussed above was broadcast on KNBC television in Los Angeles at 6:30 p.m., Sunday, September 27, 1980. I personally viewed the broadcast and caused a video tape recording to be made of the broadcast and caused a transcript of certain parts of the tape to be made. The following represents a transcript of all content within the broadcast regarding the source of funding of Californians Against Regulatory Excess and the composition and identity of Californians Against Regulatory Excess:

Warren Olney: ....so far the cigarette companies have not been known, at least, to put any money into this campaign. Is this gonna bring 'em out, are they going to spend a lot of money here?

Karen Peters: Well, I look at the polls currently, right now, as just gearing up. And that's why we're appearing on shows such as this so that the public can become educated. I've been on many propositions where the polls showed 2 to 1 against or for, and we've been able to turn that around. I think this is part of the voter education that's going on. I encourage people to read the initiative and to decide what's going to happen in their lives and how it's going to impact them.

As far as the tobacco companies, to my knowledge, I'm a volunteer, and I'm not getting any recompense for doing this. I'm very much against the proposition. As far as the tobacco companies, I don't know what's going to bring them out. I understand there've been some contacts made by the P.R. firm that we're working with, but to my knowledge there's been no substantial commitment on any type of funding.

Warren Olney: We understand that this past week the P.R. people were going back East to talk to the cigarette companies. You don't know what's happening? (or happened)

Karen Peters: To my knowledge they did not get any commitments. I know that we've got -- our first mailer went out and we have over 2,000 individual donors, and I don't know the figures. I just got the number of people that actually returned money and I have not seen a financial statement on that return.

(end segment)

7. I have reviewed the above transcript and the video tape and attest to the fact that the transcript is a true and accurate representation of the material which appears on the tape.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration is executed on October 8, 1980.

Barry Levine
Manager/Consultant
The Campaign Organization

BYLAWS OF

CALIFORNIANS AGAINST REGULATORY EXCESS

A California Nonprofit Corporation

ARTICLE I NAME AND OFFICE

The name of this corporation is and shall be "Californians Against Regulatory Excess" (hereinafter referred to as "the corporation").

The principal office of the corporation shall be at 1633 East Fourth Street, Suite 144, Santa Ana, California 92701 or such address as determined from time to time by the Board of Directors. Additional offices may be located in such other places as may be determined from time to time by the Board of Directors.

ARTICLE II MEMBERS

Section 1. Membership and Voting Rights

The corporation shall have one class of members. Each member shall have one vote.

Section 2. Eligibility for Membership

Any supporter of the goals and purposes of the corporation who wishes to become a member of the corporation may file an application in such form as the Board of Directors shall determine. Otherwise, donors to this corporation shall have a relationship to this corporation as contributors to an organization whose activities are contemplated by California Government Code Sections 82013 and 86106.

EXHIBIT B

Section 3. Termination of Membership

The Board of Directors by affirmative vote of two-thirds (2/3) of all Directors may, without specification or cause, suspend or expel a member.

Section 4. Resignation

Any member may resign by filing a written resignation with the Secretary, which resignation shall take effect on the date of receipt.

Section 5. No Dues

No member of the corporation shall be obligated to pay dues nor shall any assessment be made upon members as a condition of membership.

Section 6. Transfer of Membership and Property Rights of Members

Membership in this corporation is not transferable or assignable. Any purported or attempted assignment, transfer, alienation or encumbrance of a membership or any membership rights shall be wholly void and confer no rights upon the purported assignee, transferee or claimant. No member shall possess any property right in or to the property of the corporation. In the event all memberships are terminated or in the event the corporation owns or holds any property upon its dissolution and winding up, after paying or adequately providing for the debts and obligations of the corporation, the Directors shall dispose of the remaining property in accordance with the provisions of the Articles of Incorporation. In no event shall any earnings or other property of the corporation be distributed to or inure to the benefit of any member, former member, director or officer of the corporation or other private individual either directly or indirectly.

ARTICLE III MEETINGS OF MEMBERS

Section 1. Annual Meetings

An annual meeting of the members shall be held in the last quarter of each calendar year, for the purpose of electing directors and for the transaction of such other business as may come before the meeting.

Section 2. Special Meetings

Special meetings may be called by the President, the Secretary-Treasurer, the Board of Directors, or not less than two-thirds (2/3) of the members.

Section 3. Place of Meeting

Meetings of the members shall be held at such place or places as may from time to time be fixed by the Board of Directors.

Section 4. Notice of Meeting

Written notice of each meeting of members stating the place, day and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered either personally or by mail to each member, not less than two (2) and not more than ninety (90) days before the date of such meeting.

Section 5. Quorum and Transacting Business

A majority of the members, in person or by proxy, at any meeting shall constitute a quorum at such meeting. The vote of the majority of members present, in person or represented by proxy, shall decide any question brought before such meeting, unless a greater proportion is required by law or by the Articles of Incorporation or by these bylaws. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

Section 6. Proxies

At any meeting of members, a member entitled to vote may vote by proxy executed in writing by the member or by his or her duly authorized attorney-in-fact.

Section 7. Voting by Mail

Voting on all matters on which members are entitled to vote, including the election of directors and officers and the amendment of these bylaws, may be conducted by mail, in such manner as the Board of Directors shall determine.

ARTICLE IV BOARD OF DIRECTORS

Section 1. General Powers

The affairs of the corporation shall be managed by a Board of Directors of at least five unrelated members. No director, officer or member, or any agent of any such person, shall authorize or allow any corporation funds to be expended for any purpose other than as set forth in the Articles of Incorporation and no funds shall be expended for the support or opposition of any candidate for public office or to support or oppose any political party organization.

Section 2. Number, Tenure and Qualifications

The number of directors shall be eleven (11). Each Director shall hold office until the next annual meeting of members and until his or her successor shall have been elected and qualified. The Board may accept a resignation prior to filling that vacancy with a successor.

Section 3. Regular Meeting

A regular annual meeting of the Board of Directors shall be held without other notice than these bylaws, immediately after, and at the same place as, the annual meeting of members. The Board of Directors by resolution may provide

for the time and place for the holding of additional regular meetings of the Board without other notice than such resolution.

Section 4. Special Meetings

Special meetings of the Board of Directors may be called by or at the request of the President, the Secretary-Treasurer or any two directors. Unless approved by the President for an alternative location, the place will be the office of the corporation.

Section 5. Notice of Special Meetings

Notice of any special meeting of the Board of Directors shall be given at least two (2) days prior thereto either personally or by mail, telephone or telegram, subject to waiver of notice as provided in Article VIII of these bylaws. The attendance of a director at any meeting shall also constitute a waiver of notice of such meeting.

Section 6. Quorum

A majority of the directors holding office at any point in time, but not less than three (3), shall constitute a quorum. The directors may continue to conduct business during a meeting at which a quorum is initially present, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for the meeting.

Section 7. Manner of Acting

The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these bylaws.

Section 8. Action Without a Meeting

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all

the members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 9. Participation in Meetings by Means of Conference Telephone

Members of the Board of Directors may participate in a meeting of the Board by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

Section 10. Vacancies

Any vacancy occurring in the office of a director through resignation, removal, death or otherwise shall be filled by a majority of the remaining directors, though less than a quorum, or a sole remaining director. A director elected to fill a vacancy shall hold office during the unexpired term of his or her predecessor in office and until his or her successor is elected.

Section 11. Compensation

Directors shall not receive compensation for their services as members of the Board. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor or from receiving a reasonable honorarium for attending Board meetings or reimbursement for expenses, as may be fixed or determined by resolution of the Board.

Section 12. No Interest in Assets

No director shall possess any property right in or to the property of the corporation. In the event the

corporation owns or holds any property upon its dissolution and winding up, after paying or adequately providing for its debts and obligations, the directors shall dispose of the remaining property in accordance with the provisions of the Articles of Incorporation and Article IX of these bylaws.

ARTICLE V OFFICERS

Section 1. Officers

The officers of the corporation shall be a President, a Secretary-Treasurer, an Assistant Secretary and such other officers as may be elected to offices created by the Board of Directors. One person may hold two or more offices, except those of President and Secretary-Treasurer, but no officer shall execute, acknowledge, or verify any instrument in more than one capacity, if such instrument is required to be executed, acknowledged, or verified by two or more officers.

Section 2. Election and Term of Office

The officers of the corporation shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of any officer shall not be held at such meeting, such election shall be held as soon thereafter as conveniently possible. New offices may be created and filled, and vacancies may be filled, at any meeting of the Board of Directors. Each officer shall hold office until his or her successor shall have been elected, unless otherwise removed.

Section 3. Removal

Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors, with or without cause, whenever in its judgment the best interests of the corporation would be served thereby.

Section 4. President

The President shall, if present, preside at all meetings of the Board of Directors, and have general supervision of the business of the corporation.

Section 5. Secretary-Treasurer (Duties as Secretary)

In the absence of the President, the Secretary shall, subject to the control of the Board of Directors, have general supervision, direction and control of corporate publications, advertisements and contracts. The Secretary shall have the power to sign any contracts or other instruments necessary or appropriate to the conduct of the affairs of the corporation. In the absence of the President, the Secretary-Treasurer shall preside at all meetings of the Board of Directors.

Section 6. Assistant Secretary

The Assistant Secretary shall have all the responsibilities of Secretary-Treasurer in the absence of the Secretary-Treasurer. The Assistant Secretary shall be responsible for the proper and legal mailing of notices to members and directors and see to the proper recording of proceedings of meetings of the Board of Directors of the corporation. The Assistant Secretary shall see that accurate records are kept of all members and shall keep the seal of the corporation. The Assistant Secretary shall automatically become Secretary-Treasurer if there is a vacancy in the office of Secretary-Treasurer or the Secretary-Treasurer is unable to perform his or her duties.

Section 7. Secretary-Treasurer (Duties as Treasurer)

The Treasurer shall be responsible for the corporation's funds and financial records. The Treasurer shall collect or supervise collection and reporting of all contributions and expenditures, shall have established proper

accounting procedures for the handling of the corporation's funds, and shall be responsible for the keeping of the funds in such banks as approved by the Board of Directors. The Treasurer shall report on the financial condition of the corporation at such meetings of the Board of Directors and at other times when called upon by the President.

At the end of each fiscal year, the Secretary-Treasurer shall prepare an annual report which shall, if required by the Board of Directors, be reported on by a certified public accountant. At the expiration of the Secretary-Treasurer's term of office or upon his or her removal, the Secretary-Treasurer shall deliver over to the person designated by the President all books, money and other property in his or her charge.

The Secretary-Treasurer shall promptly make such expenditures as are authorized. Written instructions from the Board of Directors shall first be delivered to the Secretary-Treasurer and shall be prima facie evidence that the corporation has authorized said expenditure.

The Secretary-Treasurer will ensure that the corporation is properly organized to comply with the requirements of the Political Reform Act of 1974, as amended (the "Act"), if the corporation raises funds and/or makes expenditures subject to that Act.

If the corporation is a "committee" under the Act, as required by Government Code Section 84100(a), no contribution shall be accepted nor expenditure made or incurred during any time when there is a vacancy in the office of Secretary-Treasurer. All contributions shall be received in accordance with the provisions of Government Code Section 84100(c), to ensure that all contributors, and intermediaries of the contributors, have provided adequate identification

as required for the campaign statements. All expenditures shall be made only after all information required to be reported pursuant to Government Code Section 84210(h) has been obtained. The Treasurer shall keep such books as required by Government Code Section 84100(d).

If the corporation makes expenditures subject to reporting under Government Code Sections 82013, 82025 and 84210, the Treasurer shall be responsible to file all reports required by Government Code Sections 84201, 84206 and 86109.

ARTICLE VI OTHER PROVISIONS

Section 1. Contracts

The Board of Directors may authorize any officer or officers, agent or agents, of the corporation, other than the Secretary who already has, and does not need, authorization, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, Etc.

All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents, of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Secretary and Treasurer.

Section 3. Gifts

The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purpose or for any special purpose of the corporation.

Section 4. Indemnification of Directors, Officers and other Corporate Agents

This corporation shall have the power, and hereby exercises its power to, indemnify and hold harmless each "agent" of the corporation, as the term "agent" is defined in Section 7237(a) of the California General Corporation Law (hereinafter the "Law"), from and against any loss, cost liability, judgment, fine, settlement payment, or other amounts, and any "expenses" (as defined in Section 7237(a) of the Law) incurred in connection with any "proceeding" (as defined in said Section 7237(a)) by such agent to the full extent permitted by applicable law. The corporation shall have the power to purchase insurance for any or all of its agents against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such and such insurance coverage may extend beyond the agent's right to indemnity hereunder, and the corporation shall have the power to advance to its agents "expenses" (as defined above) at any time and from time to time prior to the final disposition of any proceeding to the full extent permitted by applicable law. To the extent not prohibited by then applicable law, any indemnification shall be made in a particular case by the corporation on determination that the requirements for indemnification have been met which determination shall be made (1) by the members of the corporation acting in such matter in any manner permitted by then applicable law, or (2) by independent legal counsel in a written opinion, if the members are unable to act in such manner or elect to request such opinion.

This section shall create a right of indemnification for each person referred to in this section, whether or not the proceeding to which the indemnification relates arose

in whole or in part prior to adoption of this section, and in the event of death, such right shall extend to such person's legal representatives. The right of indemnification hereby given shall not be exclusive of any other rights such person may have whether by law, including Corporation Code Section 7237 or under any agreement, vote of directors or members or otherwise.

ARTICLE VII BOOKS AND RECORDS

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members and Board of Directors and shall keep at the principal office a record giving the names and addresses of all members. All books and records of the corporation may be inspected by any member, or his or her agent or attorney for any proper purpose at any reasonable time.

ARTICLE VIII WAIVER OF NOTICE

Whenever any notice is required to be given under the provisions of the General Nonprofit Corporation Law of California or under the provisions of the Articles of Incorporation by the bylaws of the corporation, a waiver therof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE IX DISSOLUTION

This corporation is not organized, nor shall it be operated, for pecuniary gain or profit, and it does not contemplate the distribution of gains, profits, or dividends to its members and is organized solely for nonprofit purposes.

No part of the profits or net income of this corporation shall ever inure to the benefit of any private shareholder or individual. Upon the dissolution or winding up of the corporation, its assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation, shall be distributed to a non-political, nonprofit fund, foundation or corporation which has established its tax-exempt status under Section 501(c)(4) of the Internal Revenue Code.

ARTICLE X AMENDMENTS TO BYLAWS

New bylaws may be adopted, or these bylaws may be amended or repealed, by the affirmative vote of a two-thirds (2/3) vote of the Board of Directors at which a quorum is present, or by the members as provided and authorized by law; provided, however, that no amendment shall decrease the number of Directors below five (5) and no amendment changing the authorized number of directors of the corporation may be adopted until duly approved by vote or written consent of a majority of the members of the corporation. A copy of the proposed amendment or new bylaws shall be included in the notice of meeting given to each member.

CERTIFICATE

I, ROBERT E. NELSON, hereby certify:

That I am the duly elected and acting Assistant Secretary of Californians Against Regulatory Excess, a California Nonprofit Corporation; and

That the foregoing Bylaws, consisting of 14 pages, including this one, constitute the bylaws of said corporation, as duly adopted by the Directors at a meeting held on June 16, 1980.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of June, 1980.

ROBERT E. NELSON
Assistant Secretary

MAR 22 RECD

C12- 11
ATTACHMENT I

PAUL L. LOVEDAY
Attorney At Law

Two Embarcadero Center, 24th Floor
San Francisco, California 94111 (415) 955-0733

RECEIVED BY FCC
MAIL BRANCH ON
NOV 20 1990

RECEIVED BY FCC
MAIL BRANCH ON
NOV 28 1990

Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

Attn: Mr. William Triqarico, Secretary

Re: Application for Review by Full Commission of Staff Ruling (the "Staff Ruling") Denying Request for Declaratory Ruling by Paul Loveday and Californians for Smoking and No Smoking Sections ("Yes on 10") FCC File 8330-H

Gentlemen:

Paul Loveday and Californians for Smoking and No Smoking Sections hereby apply to the full Federal Communications Commission ("FCC") for review of the Staff Ruling for the following reasons:

1. Contrary to the claims by the attorneys for Californians Against Regulatory Excess and the tobacco manufacturers, the record in this matter conclusively proves that the Board of Directors of Excess had neither editorial control over nor any involvement whatsoever in Excess advertising.

2. The Staff Ruling erred in implying that Yes on 10 had a duty to "conclusively prove" the tobacco industry controlled No on 10 advertising. The overwhelming circumstantial evidence of such control is sufficient to require the exercise of reasonable diligence by broadcast stations. The exercise of reasonable diligence by broadcast stations would easily have proven such control.

3. The Staff Ruling erred in its assumptions with respect to the meaning of "Sponsor" and "control".

4. The Staff Ruling ignores the FCC's own regulations adopted for the purpose of "requiring a station to go beyond a named 'Sponsor' to find and announce the real party in interest."

5. The Staff Ruling elevates (to previously unimaginable heights) form over substance and demonstrates a lack of understanding of the evidence by statements such as:

> "It should be noted that a sponsorship identification statement referring to the "tobacco industry" may be deceptive and misleading, in that there is no particular entity known as such, and further that CARE is, in fact, incorporated in California and has Californians serving on its Board."

6. The Staff Ruling, ignoring the intent of FCC regulations, makes it possible for any sponsor to disguise its involvement in a political campaign merely by following corporate formalities.

7. The Staff Ruling ignores FCC regulations by holding, in effect, that the procedures involved in requiring the identification of the real party in interest behind political advertising are too burdensome.

Very truly yours,

Paul Loveday
Paul L. Loveday

Californians for Smoking and
No Smoking Sections

by Paul Loveday

DEC 1 1980

Form 420
1980

RECIPIENT COMMITTEE CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

For use by recipient committees which receive a cumulative contribution of $100 or more from a single source.

(Type or Print in Ink)

A OFFICIAL USE ONLY

Statement covers period from 1/1/80* through 9/23/80.

NAME OF COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS
(aka C.A.R.E.; aka No on Proposition 10; aka No on 10)

I.D. NUMBER: 801908

ADDRESS OF COMMITTEE: NO. AND STREET: 1633 East Fourth Street, Suite 286 | CITY: Santa Ana | STATE: CA | ZIP CODE: 92701 | AREA CODE PHONE NUMBER: 714 558-8100

NAME OF TREASURER:
WILLIAM F. DOHR

PERMANENT ADDRESS OF TREASURER: NO. AND STREET: 209-1/2 Opal | CITY: Balboa Island | STATE: CA | ZIP CODE: 92662 | AREA CODE PHONE NUMBER: 714 558-8100

TYPE OF ELECTION (CIRCLE ONE IF APPLICABLE): PRIMARY (GENERAL) SPECIAL RECALL

CIRCLE IF APPLICABLE: SEMIANNUAL CAMPAIGN STATEMENT

DATE OF ELECTION (MO., DAY, YR.): November 4, 1980

TOTAL PAGES: 67

ALLOCATION OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES

(Allocate expenditures from Schedules E & F by candidates, officeholders and measures; amounts may be rounded off to whole dollars.)

OFFICIAL USE ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE Support	CHECK ONE Oppose	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Smoking and Non-Smoking Sections, Proposition 10		X	304,252.80	304,252.80
	*Committee formed July 8, 1980				

Attach additional information on appropriately labeled continuation sheets.

C

D

E

F

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct complete and that I have used all reasonable diligence in their preparation.

Executed on 9/29/80 (DATE) at Los Angeles, CA (CITY AND STATE) by DANA W. REED, Assistant Treasurer (SIGNATURE OF TREASURER)

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement its schedules.

not applicable

Executed on _____ (DATE) at _____ (CITY AND STATE) by _____ (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

For information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provisions of the Political Reform Act," Section XI.

CAMPAIGN DISCLOSURE STATEMENT SUMMARY PAGE

FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
I/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

	COLUMN A Cumulative total from previous period*	COLUMN B Total this period from attached schedules	COLUMN C Cumulative to date (Columns A + B)
CONTRIBUTIONS RECEIVED			
1. Monetary contributions	$ -0-	$ 384,337.45 (SCHEDULE A, LINE 3)	$ 384,337.45
2. Loans	-0-	-0- (SCHEDULE B, LINE 5)	-0-
3. Subtotal	$ -0- (LINES 1 + 2)	$ 384,337.45 (LINES 1 + 2)	$ 384,337.45 (LINES 1 + 2)
4. Non-monetary contributions	-0-	4,762.00 (SCHEDULE C, LINE 3)	4,762.00
5. Pledges	-0-	-0- (SCHEDULE D, LINE 7)	-0-
6. TOTAL CONTRIBUTIONS	$ -0- (LINES 3 + 4 + 5)	$ 389,099.45 (LINES 3 + 4 + 5)	$ 389,099.45 (LINES 3 + 4 + 5 SHOULD EQUAL COLUMNS A + B)
EXPENDITURES MADE			
7. Payments	$ -0-	$ 304,252.80 (SCHEDULE E, LINE 4)	$ 304,252.80
8. Accrued expenses (unpaid bills)	-0-	-0- (SCHEDULE F, LINE 3)	-0-
9. TOTAL EXPENDITURES	$ -0- (LINES 7 + 8)	$ 304,252.80 (LINES 7 + 8)	$ 304,252.80 (LINES 7 + 8 SHOULD EQUAL COLUMNS A + B)

STATEMENT OF CHANGES IN FINANCIAL CONDITION

10. Cash on hand at the beginning of this period	$ -0-
11. Cash receipts this period (Line 3, Column B above)	384,337.45
12. Miscellaneous adjustments to cash (Schedule G, Line 7)	200.00
13. Cash payments this period (Line 7, Column B above)	304,252.80
14. Cash on hand at closing date (Lines 10+11+12-13 above)	80,284.65
15. Outstanding debts (Line 2 + Line 8 of Column C above)	-0-
16. Ending surplus (If Line 14 is greater than Line 15, subtract Line 15 from Line 14)	$ 80,284.65
17. Ending deficit (If Line 15 is greater than Line 14, subtract Line 14 from Line 15)	$ (

*If this is the first report filed or if the last report was a post-election statement, Column A should be zero except for unpaid loans, bills and pledges.

SCHEDULE A

MONETARY CONTRIBUTIONS RECEIVED
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

DATE REC'D	FULL NAME AND ADDRESS OF CONTRIBUTOR (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	AMOUNT RECEIVED	AMOUNT CUMULATIVE TO DATE
7/15	Sean K. Fitzpatrick 4500 Marloma Drive Rolling Hills Estates, CA 90274	Creative Director	Dancer, Fitzgerald, Sample	100.	100.
7/21	James H. Lindsey 4113 Via Largavista Palos Verdes Estates, CA 90274	Advertising	DFS	100.	100.
7/8 8/12 9/23	Philip Morris Incorporated 100 Park Ave. New York, NY 10017	n/a	n/a	117,000.	117,000.
7/8 8/18 9/23	Lorillard, A Division of Loews Theatres, Inc. 666 Fifth Ave. New York, NY 10103	n/a	n/a	41,000.	41,000.
7/8 8/6 9/2	Brown & Williamson Tobacco Corporation 1600 W. Hill St. Louisville, KY 40232	n/a (cumulated	n/a with non-monetary)	65,000.	65,200.
8/21 9/12	R. J. Reynolds Tobacco Company Winston-Salem, NC 27102	n/a (cumulated	n/a with non-monetary)	149,000.	149,834
9/8	General Cigar & Tobacco Co. U.S. Route 130 at Georges Rd. Dayton, NJ 08810	n/a	n/a	1,500.	1,500
			SUBTOTAL	373,700.	

[X] If more space is needed, check box at left and attach additional Schedules A.

SUMMARY

1. AMOUNT RECEIVED, $100 OR MORE (Include all Schedule A subtotals)	$376,700.00	
2. AMOUNT RECEIVED LESS THAN $100 (Not itemized)	7,637.45	
3. TOTAL MONETARY CONTRIBUTIONS THIS PERIOD (Line 1 + Line 2) Enter here and on Line 1 Column B of Summary Page		384,33[illegible]

SCHEDULE A

MONETARY CONTRIBUTIONS RECEIVED
(CONTINUATION SHEET)
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

DATE REC'D	FULL NAME AND ADDRESS OF CONTRIBUTOR (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	AMOUNT RECEIVED	AMOUNT CUMULATIVE TO DATE
9/22	Glaser Bros. 3130 Leonis Blvd. Los Angeles, CA 90058	n/a	n/a	3,000.	3,000.

☐ If more space is needed, check box at left and attach additional Schedules A.

SUBTOTAL 3,000.

U.A. 182

SCHEDULE C

NON-MONETARY CONTRIBUTIONS RECEIVED

FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

DATE REC'D	FULL NAME AND ADDRESS OF CONTRIBUTOR (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	DESCRIPTION OF GOODS OR SERVICES	FAIR MARKET VALUE RECEIVED	CUMULATIVE AMOUNT
1/1-9/23	Brown & Williamson Tobacco Corporation 1600 W. Hill St. Louisville, KY 40232	n/a (cumulated with monetary)	n/a	Mailing labels produced inhouse	200.	65,200.
1/1-9/23	R. J. Reynolds Tobacco Company Winston-Salem, NC 27102	n/a (cumulated with monetary)	n/a	Printing of mailing labels inhouse	834.	149,834.
1/1-9/23	The Tobacco Institute 1875 I St., N.W., #800 Washington, D.C. 20006	n/a	n/a	Consulting services, surveys and mailing labels	3,728.	3,728.
☐ If more space is needed, check box at left and attach additional Schedules C.				SUBTOTALS	4,762.	

SUMMARY

1. NON-MONETARY CONTRIBUTIONS OF $100 OR MORE THIS PERIOD	4,762.	
2. NON-MONETARY CONTRIBUTIONS UNDER $100 THIS PERIOD (Not itemized)	-0-	
3. TOTAL NON-MONETARY CONTRIBUTIONS THIS PERIOD (Line 1 + 2) Enter here and on Line 4, Column B of Summary Page		$ 4,762.

SCHEDULE E

PAYMENTS AND CONTRIBUTIONS MADE

FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Arnell Management Company 505 N. Tustin Ave. Santa Ana, CA 92705		office rental	2,320.00
Apace Moving 2152 Allon Ave. Irvine, CA 92714		office partitions	70.00
Robert Nelson & Associates 1611 E. 4th St., #144 Santa Ana, CA 92701		reimbursement for postage fee and office supplies	67.9
Phase 2 Graphic Design Studio 1633 E. 4th St., #148 Santa Ana, CA 92701		design and typesetting	166.9
Westates Rubber Stamps 1202 E. Washington Pl. Santa Ana, CA 92701		rubber stamps	40.6
U.S. Postmaster Santa Ana, CA 92701		postage	15.0
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		reimbursement for office furniture rental	61.9
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	770.0
[X] If more space is needed, check box at left and attach additional Schedules E.		SUBTOTAL	3,512.4

SUMMARY

1. PAYMENTS OF $100 OR MORE MADE THIS PERIOD (Include all Schedule E subtotals)	$304,252.80	
2. PAYMENTS UNDER $100 THIS PERIOD (Not itemized)	incl. above	
3. TOTAL ACCRUED EXPENSES PAID THIS PERIOD (Schedule F, Line 4)	-0-	
4. TOTAL PAYMENTS THIS PERIOD (Lines 1 + 2 + 3) Enter total here and on Line 7, Column B of Summary Page		$304,252.

J.A. 184

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Dennis Freidenrich 17922 Gillman Irvine, CA 92715		payroll	542.5(
State Compensation Insurance Fund P.O. Box 2134 Los Angeles, CA 90051		workers compensation premium	750.0(
U.S. Postmaster San Francisco, CA		postage and fee	500.0
Robert Nelson & Associates 1333 E. 4th St., #144 Santa Ana, CA 92701		management fee	10,000.0
Robert Davis 2300 Park Newport, #428 Newport Beach, CA 92660		consulting fee, copywriting services	2,000.0
Dennis Freidenrich 17922 Gillman Irvine, CA 92715		payroll	542.5
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	770.0
Sandra Ray Hetrick 14352 Mervyn Place Tustin, CA 92680		payroll	381.9
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		payroll	400.9
4 Speed Delivery Service 17692 Cowan St. Irvine, CA 92714		deliveries	121.
Allen's Press Clipping Bureau P.O. Box 2761 Los Angeles, CA 90051		press clipping services	15.

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 16,024.

J.A. 195

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Pacific Delivery System P.O. Box 1571 Orange, CA 92666		deliveries	23.00
Los Angeles Times Times Mirror Square Los Angeles, CA 90053		advertisement	21.40
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for office furniture, rental, deliveries postage, press clipping services, federal express, consultant fee, telecopy lease	992.79
Payees $100.00 and over: Brenners Rents Furniture 1350 So. Maple Ave. Montebello, CA 90640		214.08	
Bob Davis 2830 Park Newport Newport Beach, CA 92660		300.00	
3M Company 601 Park Center Drive Santa Ana, CA 92701		314.51	
Sutorius & Associates 1881 Langley Ave. Irvine, CA 92714		deposit for design and artwork	1,000.00
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		printing	366.76
The Register P.O. Box 11867 Santa Ana, CA 92711		advertisement	28.6
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		typewriter rentals	116.6
Payees $100.00 and over: Think Word Processing, Inc. 1510 E. Katella Ave. Anaheim, CA 92805		116.60	

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 2,549.1

J.A. 186

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Robert Davis 2900 Park Newport, #428 Newport Beach, CA 92660		consultant fee, copywriting services	1,000.00
Dobbs & Nielsen One Maritime Plaza, #2500 San Francisco, CA 94111		payment on account of field survey	11,040.00
Payees $100.00 and over: T. Lance Tarrance 3648 W. FM 1960 Houston, Texas 77068		11,040.00	
Public Action Consultants 7052 Orangewood Ave., #9 Garden Grove, CA 92641		deposit on mailer	10,000.00
Breuners Rents Furniture 1550 So. Maple Ave. Montebello, CA 90640		rental of furniture	199.81
Dobbs & Nielsen One Maritime Plaza, #2500 San Francisco, CA 94111		payment on account of research Payees $100.00 and over: The Public Sector 4,500.00 333 Kearny St., #510 San Francisco, CA 94108	4,500.00
Security Pacific National Bank 6th & Flower Streets Los Angeles, CA 90017		payroll preparation charge	75.00
Robert Davis 2900 Park Newport, #428 Newport Beach, CA 92660		consultant fee, copywriting services	1,000.00
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		expense advance for mileage	500.00
Tischer Company 201 Sansome St., #201 San Francisco, CA 94104		office rent, San Francisco	1,764.00
Sutorius & Associates 1881 Langley Ave. Irvine, CA 92714		design and artwork	424.91

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 30,503.72

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/8

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801906

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		printing	979.69
Security Pacific National Bank 6th & Flower Streets Los Angeles, CA 90017		payroll preparation charge	45.00
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		payroll	750.00
Dennis Freidenrich 17922 Gillman Irvine, CA 92715		payroll	1,565.00
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		payroll	568.20
Sandra May Hetrick 14352 Mervyn Place Tustin, CA 92680		payroll	763.68
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		payroll	1,071.80
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	1,861.36
Internal Revenue Service 5045 E. Butler Ave. Fresno, CA 93888		employer's payroll taxes	675.28
Security Pacific National Bank 6th & Flower Streets Los Angeles, CA 90017		check order charge	13.7
Guaranty Office Equipment 654 Mission St. San Francisco, CA		office furniture and equipment rental, San Francisco office	1,007.8

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 9,301.5

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		meeting expense	50.00
Pacific Telephone 633 Folsom St., #770 San Francisco, CA 94107		deposit and installation (San Francisco office)	1,696.50
Sincerus & Associates 1681 Langley Ave. Irvine, CA 92714		graphic design and typesetting	2,163.28
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		management fee	10,000.00
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses, rent, postage, telephone deposit, travel, consultant fees	21,545.00
Payees $100.00 and over: Public Action Consultants 7152 Orangewood Ave. Garden Grove, CA 92641		13,860.00	
Arnell Management 505 N. Tustin Ave. Santa Ana, CA 92705		1,160.00	
Pacific Telephone Los Angeles, CA		2,700.00	
Anni Williams 4080 California Norco, CA 91760		1,200.00	
CMT Services 1107 - 9th St., #914 Sacramento, CA 95814		2,625.00	
Parker & Son Publications, Inc. 6500 Flotilla Los Angeles, CA		printing	18,643.28

☒ If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 54,098.0

J.A. 189

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 450)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Public Action Consultants 7052 Orangewood Ave., #9 Garden Grove, CA 92641		balance on mailer	15,109.1
U.S. Postmaster Los Angeles, CA		postage	500.0
Security Pacific National Bank 8th & Flower Streets Los Angeles, CA 90017		payroll preparation charge	48.0
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		payroll	750.0
Colene R. Cook 68 Lake Pines Irvine, CA 92714		payroll	750.0
Jeanne Patricia Dehaan 4060 California Norco, CA 91760		payroll	500.0
Dennis Freidenrich 17922 Gillman Irvine, CA 92715		payroll	1,100.0
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		payroll	1,250.0
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680		payroll	600.
James G. McKinney 157 Seventh Ave. San Francisco, CA 94118		payroll	1,000.
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		payroll	900.

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 22,592.0

J.A. 190

SCHEDULE E

PAYMENTS AND CONTRIBUTIONS MADE

(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	1,100.00
Internal Revenue Service 5045 E. Butler Ave. Fresno, CA 93888		employer's payroll taxes	549.19
Alpine Leasing & Investment 17 Buckthorn Irvine, CA 92714		reimbursement expenses for computer supplies	156.38
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		fee for temporary secretary	360.0
Pacific Telephone 833 Folsom St., #770 San Francisco, CA 94107		telephone charges (Santa Ana office)	1,355.3
Karman Answering Service 2991 Grace Lane Costa Mesa, CA 92626		telephone answering service (Santa Ana)	57.5
Xerox Corporation 1000 W. Temple Los Angeles, CA 90074		copier rental and supplies	581.7
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683 (No payee $100		reimbursement of expenses for press conference, rubber stamps, mileage, parking and over)	177.1
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680		reimbursement of expenses for office supplies and mileage	51.
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230 (No payee $100		reimbursement of expenses for mileage, parking and over)	250.
James G. McKinney 157 7th Avenue San Francisco, CA 94118 Payee $100	and	reimbursement of expenses for airfare, parking over: Air California 120.00 San Francisco, CA	126.
[X] If more space is needed, check box at left and attach additional Schedules E.		SUBTOTALS	4,765.

J.A. 191

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for typewriter rentals, postage, supplies, deliveries, meeting expenses	1,159.58
Payees $100.00 and over: Think Word Processing, Inc. 1510 E. Katella Ave. Anaheim, CA 92805		243.80	
4 Speed Delivery Service 17692 Cowan St. Irvine, CA 92714		190.60	
Tustin Bookshop & Stationers 1100 Irvine Blvd. Tustin, CA 92680		495.24	
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		reimbursement of expenses for mileage, hotel	164.0
Dobbs & Nielsen One Maritime Plaza, #2500 San Francisco, CA 94111		legal and administrative services, costs for postage, telephone, photocopying and miscellaneous	6,916.3
Dobbs & Nielsen One Maritime Plaza, #2500 San Francisco, CA 94111		payment on account of field survey	4,960.0
Payee $100.00 and over: V. Lance Tarrance 3648 W. FM 1960 Houston, Texas 77068		4,960.00	
Sutorius & Associates 1881 Langley Ave. Irvine, CA 92714		printing	2,185.2
Alpine Leasing & Investment 17 Buckthorn Irvine, CA 92714		word processing rental and supplies	1,332.9
U.S. Postmaster Santa Ana, CA 92701		deposit - business reply postage	200.
		SUBTOTALS	16,938.

[X] If more space is needed, check box at left and attach additional Schedules E.

J.A. 192

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Parker & Son Publications, Inc. 6500 Flotilla Los Angeles, CA		printing	5,307.42
Robert Nelson & Assoc. 1633 E. 4th St., #144 Santa Ana, CA 92701		management fee	30,000.00
U.S. Postmaster Los Angeles, CA		postage	500.00
Network Consultants 1930 Beverly Blvd. Los Angeles, CA 90057		consulting services	2,500.00
Rex Bailes 2625 Lowell St. Santa Ana, CA 92702		temporary office work	136.35
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		printing	1,018.24
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		reimbursed expenses, office equipment and supplies	128.52
Payee $100.00 and over: Adray's - CBS Premiums 1701 W. Chapman Ave. Orange, CA 92668		126.52	
Mohammed Roshanai Chapman College Box 9342 Orange, CA 92666		contract services - research	400.00
Grace Wong 14472 Birmingham Pl. Tustin, CA 92680		contract services - research	110.00
U.S. Postmaster San Francisco, CA		postage	100.00

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 40,200.52

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
James G. McKinney 157 Seventh Ave. San Francisco, CA 94118		reimbursed expenses, photocopier rental	243.77
Payees $100.00 and over: Wessel's Copier Products 514 Eccles Ave. So. San Francisco, CA 94[illegible]		243.77	
Elk's Lodge 4101 E. Willow Long Beach, CA 90805		deposit for meeting room	315.00
Sutcrius & Associates 1681 Langley Ave. Irvine, CA 92714		design, graphics	219.37
Emma Schafer 4201 Summertime Lane Culver City, CA 90230		reimbursed expenses, mileage and supplies (No payee $100 and over)	144.41
Jere M. Gilmour 16702 Melody Lane Huntington Beach, CA 92649		reimbursed expenses, mileage, meeting	35.10
Security Pacific National Bank 6th & Flower Streets Los Angeles, CA 90017		payroll preparation	48.34
Internal Revenue Service 5045 E. Butler Ave. Fresno, CA 93888		employer's payroll taxes	706.67
John J. Banaszewski 641 21st St., #3 San Diego, CA 92102		payroll	750.00
Jolene R. Cook 68 Lake Pines Irvine, CA 92714		payroll	750.00
Jeanne Patricia De Haan 4060 California Norco, CA 91760		payroll	500.00

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 3,712.6[illegible]

SCHEDULE E

PAYMENTS AND CONTRIBUTIONS MADE

(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Billie Anne Dotta 1317 N. Garnsey Santa Ana, CA 92706		payroll	78.38
Dennis Freidenrich 17922 Gillman Irvine, CA 92715		payroll	1,100.00
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		payroll	1,250.00
Sandra Kay Hetrick 14312 Marvyn Place Tustin, CA 92680		payroll	600.00
Rachel L. Kaldor 67 Duncan Way Oakland, CA 94611		payroll	590.90
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		payroll	1,000.00
Serena R. Peck 11 Dusky Wing Irvine, CA 92714		payroll	590.90
Emma Schafer 4201 Summertime Lane Culver City, CA 90230		payroll	900.00
Evelyn G. Schipske 5600 Orangethorpe Ave., #3006 La Palma, CA 90622		payroll	545.44
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	1,100.00
Paul Stier 1623 Moreland Dr. Alameda, CA 94501		payroll	590.90

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 8,346.52

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801906

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Pacific Telephone Santa Ana, CA		telephone charges	1,154.34
Sales Boosters, Inc. 1015 S. La Cienega Blvd. Los Angeles, CA 90035		bumper stickers	687.61
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		fee, temporary office help	519.75
Southern Pacific Communications P.O. Box 974 Burlingame, CA 94010		telephone charges	466.36
Audio-Visual Reporting Services 5515 Cahuenga Blvd. North Hollywood, CA 91601		transcription services	302.00
James G. McKinney 157 Seventh Ave. San Francisco, CA 94118		reimbursed expenses, postage, supplies	13.11
Rachel L. Kaldor 67 Duncan Way Oakland, CA 94611		reimbursed expenses for meeting	18.00
Paul Stier 1623 Moreland Dr. Alameda, CA 94501		reimbursed expenses for office supplies	48.8
Robert Nelson 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursed expenses for meeting	87.6
The Register P.O. Box 11867 Santa Ana, CA 92711		newspaper ad	17.
Travel Horizons 1001 Dove St., #160 Newport Beach, CA 92660		airfare	110.
		SUBTOTALS	3,425.

[X] If more space is needed, check box at left and attach additional Schedules E.

J.A. 196

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801909

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
California Chamber of Commerce 1027 10th Street Sacramento, CA 94808		directory	20.00
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		reimbursement for meeting room deposit	37.50
Jeanne Patricia De Haan 4080 California Norco, CA 91760		reimbursed expenses for mileage and supplies	12.10
Arnell Management Company 505 N. Tustin Ave. Santa Ana, CA 92705		rent	1,160.00
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		deposit for meeting	60.00
Dobbs & Nielsen One Maritime Plaza, #1500 San Francisco, CA 94111		legal and administrative services, costs for filing fees for Articles of Incorporation and Franchise Tax Board and miscellaneous	20,358.35
Payees $100.00 and over: Secretary of State State of California Sacramento, CA 95814		220.00	
Alpine Leasing & Investment 17 Buckthorn Irvine, CA 92714		rental of word processing equipment	630.00
Xerox Corporation 1000 N. Temple Los Angeles, CA 90074		copier rental	121.9[illegible]
Think Word Processing 1510 E. Katella Ave. Anaheim, CA 92805		typewriter rental	62.6[illegible]
Arrowhead Puritas Water P.O. Box 2293, Terminal Annex Los Angeles, CA 90051		rental of water cooler	39.2[illegible]

☐ If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 22,502.67

J.A. 197

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		printing	230.02
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		temporary office help	473.63
Pacific Telephone Santa Ana, CA		telecopy installation and charges	191.27
Wessel's Copier Products, Ltd. P.O. Box 3900, 3229 California Blvd. Napa, CA 94558		photocopier supplies	70.73
Paul Stier 1620 Moreland Dr. Alameda, CA 94501		reimbursed expenses for supplies, postage, and photocopies	18.14
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		reimbursed expenses for airfare parking	126.00
Payees $100.00 and over: Air California San Francisco Airport San Francisco, CA		120.00	
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230	(No Payee $100.00 and over)	reimbursed expenses for mileage, parking	128.41
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680	(No Payee $100.00 and over)	reimbursed expenses for mileage, postage, supplies, meeting	120.96
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683	(No Payee $100.00 and over)	reimbursed expenser for supplies, meetings, postage, mileage	145.23
Rachel L. Kaldor 67 Duncan Way Oakland, CA 94611	Payees $100.00 and over:	reimbursed expenses for airfare travel, parking PSA 106.00 San Diego, CA	224.84

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 1,729.23

J.A. 193

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		reimbursed expenses for travel, meals, photocopies	196.17
Payees $100.00 and over: Ponderosa Motor Inn 1100 H. St. Sacramento, CA 95814		120.54	
Sutorius & Associates 1881 Langley Ave. Irvine, CA 92714		printing	65.72
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		meeting	109.63
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		deposit for meeting expenses	60.00
Hyatt Burlingame 1333 Old Bayshore Highway Burlingame, CA 94010		deposit for meeting expenses	500.00
Evelyn G. Schipske 5600 Orangethorpe Ave., #3006 La Palma, CA 90622		reimbursed expenses for mileage, parking, hotel, supplies	89.88
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		reimbursed expenses for office supplies	14.65
Security Pacific National Bank 6th & Flower Streets Los Angeles, CA 90017		payroll preparation charge	51.02
Internal Revenue Service 5045 E. Butler Avenue Fresno, CA 93888		employer's payroll taxes	731.06
Avril Archibald 68 Lakepines Irvine, CA 92714		payroll	30.00

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 1,848.13

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		payroll	750.00
Jolene R. Cook 68 Lake Pines Irvine, CA 92714		payroll	750.00
Jeanne Patricia De Haan 4060 California Norco, CA 91760		payroll	500.00
Billie Anne Dotta 1317 N. Garnsey Santa Ana, CA 92706		payroll	140.25
Dennis Freidenrich 17922 Gillman Irvine, CA 92715		payroll	1,100.00
Jere K. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		payroll	1,250.00
Sandra Kay Hetrick 14352 Kervyn Place Tustin, CA 92680		payroll	600.00
Serena R. Peck 11 Dusky Wing Irvine, CA 92714		payroll	500.00
Mohammed Roshanai Chapman College Box 9342 Orange, CA 92666		payroll	190.00
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		payroll	900.00
Evelyn G. Schipske 5600 Orangethorpe Ave., #3006 La Palma, CA 90622		payroll	750.00

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 7,430.25

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	1,100.00
Grace Wong 14472 Birmingham Pl. Tustin, CA 92680		payroll	205.00
Rachel L. Kaldor 67 Duncan Way Oakland, CA 94611		payroll	500.00
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		payroll	1,000.00
Paul Stier 1623 Moreland Dr. Alameda, CA 94501		payroll	500.00
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursed expenses for meeting, postage, photocopies, deliveries, telephone, printing, supplies, contract services, travel	2,252.89
Payees $100.00 and over: 4-Speed Delivery Service 17692 Cowan St. Irvine, CA 92714		122.90	
Rush Reproductions 3001 Red Hill Explanade Costa Mesa, CA 92626		127.20	
Porter Graphics 1228A Village Way Santa Ana, CA 92705		199.29	
Public Sector 22 Battery St. San Francisco, CA 94111		293.42	
Mohammed Roshanai Chapman College Box 9342 Orange, CA 92666		375.00	

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 5,557.8

J.A. 201

SCHEDULE E

PAYMENTS AND CONTRIBUTIONS MADE

(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for postage, deliveries, typewriter rental, office rental, clipping service, printing	913.45
Payees $100.00 and over: Porter Graphics 1228A Village Way Santa Ana, CA 92705		166.70	
Instant Printing 3621 W. MacArthur Blvd. Santa Ana, CA 92704		125.59	
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for postage, deliveries, printing, photo rights, telecopier, supplies, typewriter rental, meeting expense	970.74
Payees $100.00 and over: 4-Speed Delivery Service 17692 Cowan St. Irvine, CA 92714		103.10	
Sir Speedy Printing Center 1104 E. 17th St. Santa Ana, CA 92701		181.34	
White Coyote Enterprises 58 Plaza Square, #C Orange, CA 92666		200.00	
Airporter Inn 18700 MacArthur Blvd. Irvine, CA 92715		200.00	
Dobbs & Nielsen One Maritime Plaza, #2500 San Francisco, CA 94111		payment on account of field survey	16,000.00
Payees $100.00 and over: V. Lance Tarrance 3648 W. FM 1960 Houston, Texas 77068		16,000.00	
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		reimbursement of expenses for office supplies and postage	66.17
		SUBTOTALS	17,950.36

[X] If more space is needed, check box at left and attach additional Schedules E.

J.A. 202

SCHEDULE E

PAYMENTS AND CONTRIBUTIONS MADE

(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		reimbursed expenses for airfare	123.00
Payees $100.00 and over: Air California San Francisco Airport San Francisco, CA		120.00	
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		reimbursed expenses for mileage, parking, telephone (No Payee $100.00 and over)	125.95
Alpine Leasing & Investment 17 Buckthorn Irvine, CA 92714		supplies	122.18
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		temporary office help	257.75
Pacific Telephone Santa Ana, CA		telephone charge	403.63
Audio-Video Reporting Services 5515 Cahuenga Blvd. North Hollywood, CA 91601		transcription services	34.00
Bob Bruni 3020 Yorba Linda, #J23 - c/o Concolino Fullerton, CA 92631		contract services	27.50
Joanne Hageman 742 E. Culver Avd. Orange, CA		contract services	19.25
J.M.J. Services 1107 - 9th St., #914 Sacramento, CA 95814		reimbursed expenses for mileage, airfare, lodging, parking	663.38
Payees $100.00 and over: Air California Sacramento, CA		366.00	

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 1,776.68

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Screenprint & Plas-Tech, Inc. 2123 S. Manchester Ave. Anaheim, CA 92802		bumper stickers	1,480.82
Robert Nelson & Associates 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursed expenses for postage, deliveries, typewriter rental, telephone, printing, furniture rental, office supplies, clipping services, meeting expenses	6,386.81
Payees $100.00 and over: 4-Speed Delivery Service 17692 Cowan St. Irvine, CA 92714		243.40	
Sir Speedy Printing Center 1104 E. 17th St. Santa Ana, CA 92701		906.66	
Pacific Telephone Los Angeles, CA		452.86	
Windsor Apartment Hotel 3198 W. 7th Los Angeles, CA		191.50	
Travel Horizons 1001 Dove St., Suite 160 Newport Beach, CA 92660		360.00	
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		627.52	
Breuners Rents Furniture 1550 So. Maple Ave. Montebello, CA 90640		595.88	
Think Word Processing, Inc. 1510 E. Katella Ave. Anaheim, CA 92805		291.50	
Davis Stationers, Inc. 116 W. Fourth St. Santa Ana, CA 92701		432.28	
U.S. Postmaster, Santa Ana, CA		1,409.27	

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 7,867.63

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Connie Drath & Bill Dwyer 9381-F Olympic Blvd. Beverly Hills, CA 90212		consulting fee	2,500.00
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		temporary office help	182.60
Paul Stier 1623 Moreland Dr. Alameda, CA 94501		reimbursed expenses for office supplies	25.29
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		reimbursed expenses for mileage (No payee $100 and over)	131.66
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		reimbursed expenses and mileage (No payee $100 and over)	189.14
Jerry Jeffe 815 N. La Brea, #197 Inglewood, CA 90302		contract services	750.00
Arrowhead Puritas Water P.O. Box 2293, Terminal Annex Los Angeles, CA 90051		drinking water	19.35
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		reimbursed expenses for office supplies	101.28
Payee $100 and over: H.S. Crocker and Co., Inc. 1300 Bryant St. San Francisco, CA 94102		101.28	
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		reimbursement of expenses for mileage and meetings	103.01
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		advance for postage	1,500.00

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 5,502 3

J.A. 205

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
James G. McKinney 157 Seventh Ave. San Francisco, CA 94118		reimbursement of airfare and meeting expenses	243.30
Payee $100 and over: United Airlines San Francisco Airport San Francisco, CA		114.00	
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		meeting expense	172.53
National Demographics 521 No. Mountain, #L Upland, CA 91786		consulting services	5,000.00
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for postage, deliveries, office supplies, meetings, consulting fees	3,738.04
Payee $100 and over: Porter Graphics 1228A Village Way Santa Ana, CA		371.74	
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		1,376.00	
3M Business Products Sales P.O. Box 92990 Postal Center Los Angeles, CA 90009		112.98	
Travel Horizon 1001 Dove St., Suite 160 Newport Beach, CA 92660		120.00	
The Public Sector 22 Battery St. San Francisco, CA 94111		458.28	
Public Action Consulants 7052 Orangewood Ave. Garden Grove, CA 92641		1,154.07	

XX If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 9,153.87

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (if committee)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement for IBM typewriter rental	225.00
Payee $100 and over: Dennis Freidenrich 17922 Gillman Irvine, CA 92715		225.00	
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for printing, word processing, consulting fees, meetings	6,408.97
Payees $100 and over: The Instant Printery 3621 W. Mac Arthur Blvd., Ste. 104 Santa Ana, CA 92704		411.70	
J.M.J. Services 1107 9th, Room 914 Sacramento, CA 95814		4,000.00	
Photos by Owen 2038 So. Holt Los Angeles, CA 90034		222.00	
Travel Horizon 1001 Dove St., Suite 100 Newport Beach, CA 92660		1,234.00	
Sheraton Carlton Hotel 923 16th St., N.W. Washington D.C.		349.46	
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for graphics, meetings, shipping, postage	322.82
Payee $100 and over: Porter Graphics 1228A Village Way Santa Ana, CA 92705		225.78	

☐ If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 6,956.79

J.A. 207

SCHEDULE G
MISCELLANEOUS ADJUSTMENTS TO CASH POSITION
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
1/1/80	9/23/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

DATE	DESCRIPTION OF ADJUSTMENT	AMOUNT OF INCREASE TO CASH	AMOUNT OF DECREASE TO CASH
9/15	John J. Banaszewski - refund of unused expense advance for mileage.	200.	
☐	If more space is needed, check box at left and attach additional Schedules G — SUBTOTAL	(a) 200.	(b)

SUMMARY

1. INCREASES TO CASH OF $100 OR MORE (Include all subtotals (a))	$ 200.00	
2. INCREASES TO CASH OF LESS THAN $100 (Not itemized)	-0-	
3. TOTAL INCREASES TO CASH (Line 1 + Line 2)		200.00
4. DECREASES TO CASH OF $100 OR MORE (Include all subtotals (b))	-0-	
5. DECREASES TO CASH OF LESS THAN $100 (Not itemized)	-0-	
6. TOTAL DECREASES TO CASH (Line 4 + Line 5)		-0-
7. TOTAL MISCELLANEOUS ADJUSTMENTS TO CASH (Line 3 - Line 6) Enter here and on Line 12 of Summary Page		$ 200.00 (May be negative figure)

J.A. 208

RECIPIENT COMMITTEE CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

For use by recipient committees which receive a cumulative contribution of $100 or more from a single source.

(Type or Print in Ink)

Form 420
1980

A OFFICIAL USE ONLY

Statement covers period from 9/24/80 through 10/20/80.

I.D. NUMBER: 801908

NAME OF COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS (aka C.A.R.E.; aka No on Proposition 10; aka No on 10)

ADDRESS OF COMMITTEE (NO. AND STREET, CITY, STATE, ZIP CODE, AREA CODE, PHONE NUMBER): 1644 East Fourth Street, Suite 286 Santa Ana, CA 92701 714-558-8100

NAME OF TREASURER: WILLIAM F. DOHR

PERMANENT ADDRESS OF TREASURER (NO. AND STREET, CITY, STATE, ZIP CODE, AREA CODE, PHONE NUMBER): 209-1/2 Opal Balboa Island CA 92662 714 558-8100

TYPE OF ELECTION (CIRCLE ONE IF APPLICABLE): PRIMARY (GENERAL) SPECIAL RECALL

CIRCLE IF APPLICABLE: SEMI-ANNUAL CAMPAIGN STATEMENT

DATE OF ELECTION (MO., DAY, YR.): November 4, 1980

TOTAL PAGES: 89

ALLOCATION OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES

(Allocate expenditures from Schedules E & F by candidates, officeholders and measures; amounts may be rounded off to whole dollars.)

OFFICIAL USE ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE Support	CHECK ONE Oppose	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Smoking and Non-Smoking Sections, Proposition 10		X	1,409,183.47	1,713,436.2

Attach additional information on appropriately labeled continuation sheets.

C

D

E

F

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct a complete and that I have used all reasonable diligence in their preparation.

Executed on 10/23/80 (DATE) at Los Angeles, CA (CITY AND STATE) by _____ (SIGNATURE OF TREASURER) DANA W. REED, Assistant Treasurer

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct a complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement a its schedules.

Executed on _____ (DATE) at not applicable (CITY AND STATE) by _____ (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

For information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provis of the Political Reform Act," Section XI.

J. A. 209

CAMPAIGN DISCLOSURE STATEMENT SUMMARY PAGE
FORM 420, 430 OR 490
(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

	COLUMN A Cumulative total from previous period*	COLUMN B Total this period from attached schedules	COLUMN C Cumulative to date (Columns A + B)
CONTRIBUTIONS RECEIVED			
1. Monetary contributions	$ 384,337.45	$ 1,775,388.00 (SCHEDULE A, LINE 3)	$ 2,159,725.45
2. Loans	-0-	175,000.00 (SCHEDULE B, LINE 3)	175,000.00
3. Subtotal	$ 384,337.45 (LINES 1 + 2)	$ 1,950,388.00 (LINES 1 + 2)	$ 2,334,725.45 (LINES 1 + 2)
4. Non-monetary contributions	4,762.00	3,380.00 (SCHEDULE C, LINE 3)	8,142.00
5. Pledges	-0-	-0- (SCHEDULE D, LINE 7)	-0-
6. TOTAL CONTRIBUTIONS	$ 389,099.45 (LINES 3 + 4 + 5)	$ 1,953,768.00 (LINES 3 + 4 + 5)	$ 2,342,867.45 (LINES 3 + 4 + 5 SHOULD EQUAL COLUMNS A + B)
EXPENDITURES MADE			
7. Payments	$ 304,252.80	$ 1,409,183.47 (SCHEDULE E, LINE 4)	$ 1,713,436.27
8. Accrued expenses (unpaid bills)	-0-	-0- (SCHEDULE F, LINE 3)	-0-
9. TOTAL EXPENDITURES	$ 304,252.80 (LINES 7 + 8)	$ 1,409,183.47 (LINES 7 + 8)	$ 1,713,436.27 (LINES 7 + 8 SHOULD EQUAL COLUMNS A + B)

STATEMENT OF CHANGES IN FINANCIAL CONDITION

10. Cash on hand at the beginning of this period	$ 80,284.65	
11. Cash receipts this period (Line 3, Column B above)	1,925,388.00	
12. Miscellaneous adjustments to cash (Schedule G, Line 7)	1,367.62	
13. Cash payments this period (Line 7, Column B above)	1,409,183.47	
14. Cash on hand at closing date (Lines 10+11+12-13 above)	597,856.80	
15. Outstanding debts (Line 2 + Line 8 of Column C above)	175,000.00	
16. Ending surplus (if Line 14 is greater than Line 15, subtract Line 15 from Line 14)		$ 422,856.80
17. Ending deficit (if Line 15 is greater than Line 14, subtract Line 14 from Line 15)		$ ( )

*If this is the first report filed or if the last report was a post-election statement, Column A should be blank except for unpaid loans, bills and pledges.

SCHEDULE A

MONETARY CONTRIBUTIONS RECEIVED
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

DATE REC'D	FULL NAME AND ADDRESS OF CONTRIBUTOR (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	AMOUNT RECEIVED	AMOUNT CUMULATIVE TO DATE
9/29	Handlery Hotel Stewart 351 Geary San Francisco, CA 94102	n/a	n/a	250.	250.
9/29	George Bensen & Son Wholesalers 1350 Van Dyke Ave. San Francisco, CA 94124	n/a	n/a	500.	500.
10/17	Red Lion Motor Inn 2001 Point West Way Sacramento, CA 95815	n/a	n/a	250.	250.
9/29 10/2	Lorillard, A Division of Loews Theatres, Inc. 666 Fifth Ave. New York, NY 10103	n/a *(cumulated with monetary, non-monetary and loan)	n/a	209,000.	268,127 *
10/17	Hotel del Coronado 1500 Orange Ave. Coronado, CA 92118	n/a	n/a	100.	100.
10/7	Martin Cable Cable's Restaurant 20929 Ventura Blvd. Woodland Hills, CA 91364	Restaurant Owner	same address	100.	100.
10/7	California Hotel and Motel Association 520 Capitol Mall, #706 Sacramento, CA 95814	n/a *(cumulated with non-monetary)	n/a	1,000.	1,190.*
			SUBTOTAL	211,200.	

[X] If more space is needed, check box at left and attach additional Schedules A.

SUMMARY

1. AMOUNT RECEIVED, $100 OR MORE (Include all Schedule A subtotals)	1,774,950.	
2. AMOUNT RECEIVED LESS THAN $100 (Not itemized)	438.	
3. TOTAL MONETARY CONTRIBUTIONS THIS PERIOD (Line 1 + Line 2) Enter here and on Line 1 Column B of Summary Page		1,775,388

SCHEDULE A

MONETARY CONTRIBUTIONS RECEIVED
(CONTINUATION SHEET)
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

I.D. NUMBER (if committee): 801908

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

DATE RECD	FULL NAME AND ADDRESS OF CONTRIBUTOR (If committee, enter I.D. number or treasurer's name and address)	OCCUPATION	EMPLOYER (If self-employed, list street address and city of business)	AMOUNT RECEIVED	AMOUNT CUMULATIVE TO DATE
10/8	Peter N. Jepsen The Cove 3191 W. Seventh St. Los Angeles, CA 90005	Restaurant Owner	same address	100.	100.
10/8	Orange Associates, Inc., dba Revere House 900 W. First St. Tustin, CA 92680	n/a	n/a	100.	100.
10/8	WRO, Inc. dba IHOP No. 721 1113 So. Baldwin Ave. Arcadia, CA 91006	n/a	n/a	100.	100.
10/10	Stanton D. Elliott 445 W. Washington St. Eureka, CA 95507	Restaurant Owner	same address	100.	100.
10/10	Peter C. Gilham, Sr. Cattlemens Restaurant 3704 Montgomery Dr. Santa Rosa, CA 95405	Restaurant Owner	same address	500.	500.
10/10	Burt Hixson The Warehouse Restaurant 4499 Admiralty Way Marina del Rey, CA 90291	Restaurant Owner	same address	100.	100.
10/10	Marc H. Vedrines The French Poodle Junipero and 5th Carmel, CA 93921	Restaurant Owner	same address	100.	100.
10/10	Sportsmen's Lodge Restaurant 12833 Ventura Blvd. Studio City, CA 91604	n/a	n/a	100.	100.
10/10	S.F.D. Hotel Inc. Sir Francis Drake Powell at Sutter San Francisco, CA 94101	n/a	n/a	100.	100.
9/26 9/30 10/10	Brown & Williamson Tobacco Corporation 1600 W. Hill St. Louisville, KY 40232	n/a *(cumulated with monetary, non-monetary and loan)	n/a	300,000.	390,20
10/13	L. B. Ball & Co. P. O. Box 989 Long Beach, CA 90801	n/a	n/a	500.	50
			SUBTOTAL	301,800.	

[X] If more space is needed, check box at left and attach additional Schedules A.

SCHEDULE A

MONETARY CONTRIBUTIONS RECEIVED
(CONTINUATION SHEET)
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

I.D. NUMBER (if committee): 801908

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

DATE REC'D	FULL NAME AND ADDRESS OF CONTRIBUTOR (If committee, enter I.D. number or treasurer's name and address)	OCCUPATION	EMPLOYER (If self-employed, list street address and city of business)	AMOUNT RECEIVED	AMOUNT CUMULATIVE TO DATE
10/13	Big Boy Restaurant of San Jose, Inc. 449 So. Winchester San Jose, CA 95128	n/a	n/a	100.	100.
10/14	Restaurants Central 765 Wave St. Monterey, CA 93940	n/a	n/a	100.	100.
10/15	Los Gatos Lodge 50 Saratoga Ave. Los Gatos, CA 95030	n/a	n/a	100.	100.
10/15	Arriba Restaurants, Inc. 49 W. Del Mar Blvd. Pasadena, CA 91105	n/a	n/a	200.	200.
10/15	Fairmont Hotel & Tower Nob Hill San Francisco, CA 94106	n/a	n/a	250.	250.
10/15	Cinnabar 515 - 4th St. Santa Rosa, CA 95401	n/a	n/a	100.	100.
10/15	The Raft, Inc. dba Sand Castle Restaurant 28128 Pacific Coast Hwy. Malibu, CA 90265	n/a	n/a	100.	100.
10/15	Blue Fox, Inc. 659 Merchant St. San Francisco, CA 94111	n/a	n/a	100.	100.
10/15	Pam Pam East (370 Geary Inc.) 398 Geary St. San Francisco, CA 94102	n/a	n/a	100.	100.
10/15	Four Seasons-Clift Hotel Geary at Taylor San Francisco, CA 94102	n/a	n/a	250.	250.
9/24 9/29 10/6 10/8 10/14	R. J. Reynolds Tobacco Company Winston-Salem, NC 27102	n/a *(cumulated with monetary non-monetary and loan)	n/a	650,000.	879,834*
			SUBTOTAL	651,400.	

[X] If more space is needed, check box at left and attach additional Schedules A.

J.A. 213

SCHEDULE A

MONETARY CONTRIBUTIONS RECEIVED
(CONTINUATION SHEET)
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

DATE RECD	FULL NAME AND ADDRESS OF CONTRIBUTOR (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	AMOUNT RECEIVED	AMOUNT CUMULATIVE TO DATE
10/15	High Sierra Food Service, Inc. dba Pizza Junction P. O. Drawer 2577 Truckee, CA 95734	n/a	n/a	100.	100.
10/17	Hyatt Regency San Francisco Five Embarcadero Center San Francisco, CA 94111	n/a	n/a	100.	100.
10/18	Pea Soup Andersen's P.O. Box W Buellton, CA 93427	n/a	n/a	100.	100.
10/18	Miramar Hotel P. O. Box M Santa Barbara, CA 93102	n/a	n/a	250.	250.
10/3	Modesto Tobacco & Candy Co. P. O. Box 3776 Modesto, CA 95352	n/a	n/a	500.	500.
10/18	Beverly Rodeo Hotel 360 N. Rodeo Dr. Beverly Hills, CA 90210	n/a	n/a	100.	100.
9/29	Royal Wholesale Cigar Company Ltd. 2939 Bandini Blvd. Los Angeles, CA 90023	n/a	n/a	3,000.	3,000.
10/7 10/10 10/17	Philip Morris Incorporated 100 Park Ave. New York, NY 10017	n/a *(cumulated	n/a with monetary and loan)	605,000.	782,000.*
10/20	Early California Restaurants, Inc. 121 So. Hartz Ave., #204 Danville, CA 94526	n/a	n/a	200.	200.
10/20	Rose Van Dyke 8455 Fountain Ave., #624 Los Angeles, CA 90069	Businesswoman	Truman Van Dyke Co.	1,000.	1,000.
10/20	F.W. Strickler & Son Bakersfield Candy & Tobacco Co. 4546 Stine Rd. Bakersfield, CA 93309	n/a	n/a	100.	100.
			SUBTOTAL	610,450.	

[X] If more space is needed, check box at left and attach additional Schedules A.

J.A. 214

SCHEDULE A

MONETARY CONTRIBUTIONS RECEIVED

(CONTINUATION SHEET)

FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD	
FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

DATE REC'D	FULL NAME AND ADDRESS OF CONTRIBUTOR (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	AMOUNT RECEIVED	AMOUNT CUMULATIVE TO DATE
10/20	D. B. Management Co. 4875 N. Harbor Dr. San Diego, CA 92106	n/a	n/a	100.	100.

☐ If more space is needed, check box at left and attach additional Schedules A.

SUBTOTAL 100.

J.A. 215

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE A

PERIOD: 9/24/80 through 10/20/80

CONTRIBUTIONS RECEIVED UNDER $100.

Ada A. Olabarrieta

Pearl M. Genett

Chapman Burk

Eldred H. Perry

Mary A. Valencia

J.A. Mejia

Fred L. Davidson

Peggy E. Chamberlain

J. Stephen Weeks

Gordon R. Nelson

Dennis L. Holding

Mary S. McCormack

Gladys B. Faber

Virginia Reid

Gertrude Blackstock

Ruth Ann Alvord

Mabel Dickson

M. Flewell

Fisher Music and Vending Service

Jean Schultz

Abel Rodriguez

Murna R. Hardy

B.H. Givan

Maria A. Freitas

Nancy L. Karr

Violette Mays Jones

Emma M. Crockett

Ruth E. Seeds

Dorothy M. Campbell

Barry Schur

Lois E. Chaney

Bonnie E. McCosh

Paul D. Ratchford

M.L. Sue Cox

Lt. Col. M. Carolyn Clayton

Jeanne Mayer

Justin Thomas

Ebba B. Abbott

Sally M. Freeberg

Old Chicago Pizza

Edward's Steak House, Inc.

James M. Nicovich

John S. Lewis

B. Ransome

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE A

PERIOD: 9/24/80 through 10/20/80

CONTRIBUTIONS RECEIVED UNDER $100.

E. H. Spraggins

Rose Cornwall

Howard C. Davis

Ann M. Egan

Mary L. Justis

Highland Springs Resort

Elizabeth Z. Sanchez

M. Thomas Green

Mary F. Brown

Andrea Michelau

Advance Oil and Filter Service

The Outpost

Wm. J. Kahn

Lucy P. Sirimarco

R.S.H., Inc.

Anna Millers', Inc.

Willa Lou Adkisson

J.A. 217

LOANS
FORM 420, 430 OR 490
(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: From 9/24/80 Through 10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

PART 1 – LOANS RECEIVED

DATE REC'D	FULL NAME AND ADDRESS OF LENDER AND ANY GUARANTORS OR COSIGNERS (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	INT. RATE	AMOUNT OF LOAN	CUMULATIVE TO DATE
10/14	R.J.Reynolds Tobacco Company Winston-Salem, NC 27102	n/a	n/a	-0-	80,000.	879,834.*
10/15	Lorillard, A Division of Loews Theatres, Inc. 666 Fifth Ave. New York, NY 10103	n/a	n/a	-0-	10,000.	268,127.*
10/17	Philip Morris Incorporated 100 Park Ave. New York, NY 10017	n/a	n/a	-0-	60,000.	782,000.*
[X]	If more space is needed, check box at left and attach additional Schedules B, Part 1.	*cumulated with monetary, non-monetary and loan	SUBTOTAL		150,000.	

PART 2 – LOANS REPAID, FORGIVEN, OR PAID BY A THIRD PARTY:

DATE	FULL NAME AND ADDRESS OF THE LENDER	(a) AMOUNT REPAID	ENTER THIS DATA ON SCHEDULE A ALSO (b) AMOUNT FORGIVEN OR PAID BY THIRD PARTY	THIRD PARTY NAME AND ADDRESS	UNPAID BALANCE
	None				
[ ]	If more space is needed, check box at left and attach additional Schedules B, Part 2. SUBTOTAL	(a) -0-	(b) -0-		

SUMMARY

1. LOANS OF $100 OR MORE THIS PERIOD (Part 1)	$175,000.	
2. LOANS UNDER $100 THIS PERIOD (Not itemized)	-0-	
3. TOTAL LOANS RECEIVED (Line 1 + 2)		175,000
4. LOANS OF $100 OR MORE REPAID THIS PERIOD (Part 2, Column a)	-0-	
5. LOANS OF $100 OR MORE THIS PERIOD FORGIVEN OR PAID BY THIRD PARTY (Part 2, Column b)	-0-	
6. LOANS UNDER $100 REPAID, FORGIVEN, OR PAID BY A THIRD PARTY THIS PERIOD (Not itemized)	-0-	
7. TOTAL LOANS REPAID, FORGIVEN OR PAID BY A THIRD PARTY THIS PERIOD (Line 4 + 5 + 6)		-0-
8. NET CHANGE THIS PERIOD (Subtract Line 7 from Line 3) Enter the difference here and on Line 2, Column B of Summary Page		$175,000 (May be negative figure)

J.A. 218

SCHEDULE B
LOANS
FORM 420, 430 OR 490
(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: From 9/24/80 Through 10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

PART 1 – LOANS RECEIVED

DATE REC'D	FULL NAME AND ADDRESS OF LENDER AND ANY GUARANTORS OR COSIGNERS (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	INT. RATE	AMOUNT OF LOAN	CUMULATIVE TO DATE
10/	Brown & Williamson Tobacco Corporation 1600 W. Hill St. Louisville, KY 40232	n/a *(cumulated with monetary, non-monetary and loan)	n/a	-0-	25,000.	390,200.*
☐	If more space is needed, check box at left and attach additional Schedules B, Part 1.		SUBTOTAL		25,000.	

PART 2 – LOANS REPAID, FORGIVEN, OR PAID BY A THIRD PARTY:

DATE	FULL NAME AND ADDRESS OF THE LENDER	(a) AMOUNT REPAID	ENTER THIS DATA ON SCHEDULE A ALSO: (b) AMOUNT FORGIVEN OR PAID BY THIRD PARTY	THIRD PARTY NAME AND ADDRESS	UNPAID BALANCE
☐	If more space is needed, check box at left and attach additional Schedules B, Part 2. SUBTOTAL	(a)	(b)		

SUMMARY

1. LOANS OF $100 OR MORE THIS PERIOD (Part 1)	$
2. LOANS UNDER $100 THIS PERIOD (Not itemized)	
3. TOTAL LOANS RECEIVED (Line 1 + 2)	
4. LOANS OF $100 OR MORE REPAID THIS PERIOD (Part 2, Column a)	
5. LOANS OF $100 OR MORE THIS PERIOD FORGIVEN OR PAID BY THIRD PARTY (Part 2, Column b)	
6. LOANS UNDER $100 REPAID, FORGIVEN, OR PAID BY A THIRD PARTY THIS PERIOD (Not itemized)	
7. TOTAL LOANS REPAID, FORGIVEN OR PAID BY A THIRD PARTY THIS PERIOD (Line 4 + 5 + 6)	
8. NET CHANGE THIS PERIOD (Subtract Line 7 from Line 3) Enter the difference here and on Line 2, Column B of Summary Page	$ (May be negative figure)

SCHEDULE C

NON-MONETARY CONTRIBUTIONS RECEIVED

FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

DATE REC'D	FULL NAME AND ADDRESS OF CONTRIBUTOR (IF COMMITTEE, ENTER I.D. NUMBER OR TREASURER'S NAME AND ADDRESS)	OCCUPATION	EMPLOYER (IF SELF-EMPLOYED, LIST STREET ADDRESS AND CITY OF BUSINESS)	DESCRIPTION OF GOODS OR SERVICES	FAIR MARKET VALUE RECEIVED	CUMULATIVE AMOUNT
9/24-10/20	California Association of Independent Business 600 N. Mountain Ave., #8202 Upland, CA 92786	n/a	n/a	prorata share of mailing costs	300.	300.
9/24-10/20	California Hotel & Motel Association 520 Capitol Mall, #706 Sacramento, CA 95814	n/a	n/a	postage, supplies and printing	190.	1,190.*
		*(cumulated with monetary)				
9/24-10/20	The Tobacco Institute 1875 I St., N.W., #800 Washington, CA 20006	n/a	n/a	compensation of two employees; employee value and costs of research; printing; portion of Tobacco Institute newsletter costs and mailing; postage	2,862.	6,590.

☐ If more space is needed, check box at left and attach additional Schedules C.

SUBTOTALS 3,352.

SUMMARY

1. NON-MONETARY CONTRIBUTIONS OF $100 OR MORE THIS PERIOD	$ 3,352.	
2. NON-MONETARY CONTRIBUTIONS UNDER $100 THIS PERIOD (Not itemized)	28.	
3. TOTAL NON-MONETARY CONTRIBUTIONS THIS PERIOD (Line 1 + 2) Enter here and on Line 4, Column B of Summary Page	-	$ 3,380.

PAYMENTS AND CONTRIBUTIONS MADE

FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
United Democratic Committee, ID #761387 1528 W. Santa Barbara Avenue Los Angeles, CA 90062		share in tabloid and mailing	5,000.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (See Attachment for payees $100 and over)	90,000.00
Colby Poster Printing Company 1332 W. 12th Place Los Angeles, CA 90015		posters for billboards	6,000.00
Foster and Kleiser 1550 W. Washington Blvd. Los Angeles, CA 90007		billboard placement	5,000.00
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		meeting expense	112.37
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (See Attachment for payees $100 and over)	103,568.00
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		management fee	35,000.00
Dobbs & Nielsen One Maritime Plaza, Suite 2500 San Francisco, CA 94111		legal and administrative fees and costs for postage, photocopies, telephone, Secretary of State filing fee	31,070.01
[X] If more space is needed, check box at left and attach additional Schedules E.		(see attachment for payees $100 and over) SUBTOTAL	275,750.38

SUMMARY

1. PAYMENTS OF $100 OR MORE MADE THIS PERIOD (Include all Schedule E subtotals)	1,409,183.47	
2. PAYMENTS UNDER $100 THIS PERIOD (Not itemized)	incl. above	
3. TOTAL ACCRUED EXPENSES PAID THIS PERIOD (Schedule F, Line 4)	-0-	
4. TOTAL PAYMENTS THIS PERIOD (Lines 1 + 2 + 3) Enter total here and on Line 7, Column B of Summary Page.		1,409,183

SCHEDULE E

PAYMENTS AND CONTRIBUTIONS MADE

(CONTINUATION SHEET) FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Security Pacific National Bank 6th and Flower Streets Los Angeles, CA 90017		payroll preparation charge	51.47
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		payroll	750.00
Jolene R. Cook 68 Lake Pine Irvine, CA 92714		payroll	750.00
Jeanne Patricia De Haan 4060 California Norco, CA 91760		payroll	500.00
Billie Anne Dotta 1317 N. Garnsey Santa Ana, CA 92706		payroll	27.50
Stephen Mark Drake 6513 Corinne Circle Buena Park, CA 90620		payroll	600.00
Dennis Freidenrich 17922 Gillman Irvine, CA 92715		payroll	1,100.00
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		payroll	1,250.00
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680		payroll	750.0
Sheila Ann Malone 811 So. Fairview Avenue Santa Ana, CA 92704		payroll	475.0
Serena R. Peck 11 Dusky Wing Irvine, CA 92714		payroll	500.0
		SUBTOTALS	6,753.9

[X] If more space is needed, check box at left and attach additional Schedules E.

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Mohammed Roshanai Chapman College Box 9342 Orange, CA 92666		payroll	170.00
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		payroll	900.00
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	1,100.00
Ruth Warkentin 425 South Broadway Santa Ana, CA 92701		payroll	55.00
Grace Wong 14472 Birmingham Place Tustin, CA 92680		payroll	160.00
Rachel L. Kaldor 67 Duncan Way Oakland, CA 94611		payroll	500.00
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		payroll	1,150.00
Paul Stier 1623 Moreland Drive Alameda, CA 94501		payroll	500.00
Internal Revenue Service 5045 E. Butler Avenue Fresno, CA 93888		employer's payroll taxes	752.48
Paul Stier 1623 Moreland Dr. Alameda, CA 94501		advance for mileage, room rental, gas	350.00
Breuners Rents Furniture 1550 So. Maple Ave. Montebello, CA 90640		furniture rental	487.05

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 6,124.53

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF APPLICABLE): 801980

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Think Word Processing 1510 E. Katella Ave. Anaheim, CA 92805		typerwriter rental and supplies	180.04
U.S. Postmaster Santa Ana, CA		postage	1,000.00
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement for postage for meter	500.00
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		reimbursement for mileage	45.72
Audio-Video Reporting Services 5515 Cahuenga Blvd. North Hollywood, CA 91601		transcribing services	292.00
Serena R. Peck 11 Disky Wing Irvine, CA 92714		reimbursement for mileage	16.46
Grace Wong 14472 Birmingham Place Tustin, CA 92680		reimbursement for parking and copies	3.60
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680		reimbursement of expenses for mileage and office supplies (no payee of $100 and over)	112.02
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		temporary office help	915.75
Black Mountain Spring Water, Inc. 800 Alameda San Carlos, CA 94070		bottled water/cooler rental	41.58
Stephen Mark Drake 6513 Corinne Circle Buena Park, CA 90620		reimbursement of expenses for hotel, parking, cabs	78.23
		SUBTOTALS	3,185.40

[X] If more space is needed, check box at left and attach additional Schedules E.

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Cabell Travel Publications 11411 Cumpston North Hollywood, CA 91601		address labels	127.20
Southern Pacific Communications P.O. Box 974 Burlingame, CA 94010		telephone service	1,636.39
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement for consulting services	2,000.00
Payee $100 and over: J.M.J. Services 1107 - 9th St., #914 Sacramento, CA 95814		$2,000.00	
Connie Drath and Bill Dwyer 9381-F Olympic Blvd. Beverly Hills, CA 90212		consulting services	2,500.00
National Demographics 521 No. Mountain, #L Upland, CA 91786		consulting services	3,500.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (see attachment for payees $100 and over)	85,262.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (see attachment for payees $100 and over)	95,807.00
A.L.N. Productions, Inc. 233 Sansome St., #1004 San Francisco, CA 94104		production of media ads	53,334.88
Colby Poster Printing Co. 1332 W. 12th Place Los Angeles, CA 90015		posters for billboards	5,660.00
Foster and Kleiser 1550 W. Washington Blvd. Los Angeles, CA 90007		billboard placement	89,115.83

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 338,943.30

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
James G. Mckinney 157 Seventh Avenue San Francisco, Ca 94118		reimbursement of expenses for airfare, parking, meals	148.65
Payee $100 and over: Air California San Francisco, CA		$120.00	
Arnell Management 505 N. Tustin, #150 Santa Ana, CA 92205		office rent	1,160.00
Parker & Son Publications, Inc. 6500 Flotilla Los Angeles, CA		printing	14,840.00
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		reimbursement of mileage and expenses	15.15
Signal Data Processing, Inc. 5580 Cherry Street Long Beach, CA 90805		deposit for direct mail services	30,000.00
Dobbs & Nielsen Suite 2500, The Alcoa Building One Maritime Plaza San Francisco, CA 94111		payment for survey	4,000.00
Payee $100 and over: V. Lance Tarrance 3648 W. FM 1960 Houston, Texas 77068		$4,000.00	
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		printing	483.36
Marketing Associates 670 N. Batavia St. Orange, CA 92668		mailing and handling	360.94
Parker & Son, Inc. P.O. Box 22017 Los Angeles, CA 90022		shipping charges	371.77
[X] If more space is needed, check box at left and attach additional Schedules E.		SUBTOTALS	51,379.87

U.A. 226

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Apple One Temporary Agency 1323 Lincoln Blvd. Santa Monica, CA 90401		temporary office help	185.60
U.S. Postmaster San Francisco, CA		postage	99.90
U.S. Postmaster Santa Ana, CA 92701		postage	1,260.00
Wessel's Copier Products, Ltd. P.O. Box 3900, 3229 California Blvd. Napa, CA 94558		copier rental	143.77
Frederick Douglas Symposium 870 Market St., Rm 736 San Francisco, CA 94102		mailing services	1,000.00
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		meeting expenses	195.77
Connie Drath and Bill Dwyer 9381-F Olympic Blvd. Beverly Hills, CA 90212		reimbursement of expenses for mileage, parking, copies, postage, entertainment, hotel, meals	217.20
Payee $100 and over: Hyatt Burlingame 1333 Old Bayshore Hwy. Burlingame, CA 94010		$106.49	
Stephen Mark Drake 6513 Corinne Circle Buena Park, CA 90620		reimbursement of expenses for mileage and supplies	59.01
Barry Schur 15130 Brookhurst, #179 Westminster, CA 92683		reimbursement of expenses for mileage, parking and supplies (no payee $100 and over)	104.07
Jolene R. Cook 68 Lake Pines Irvine, CA 92714		reimbursement of mileage	124.92

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 3,390.24

J.A. 227

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (if committee)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
James McKinney 157 Seventh Ave. San Francisco, CA 94118		reimbursement of expenses for airfare, mileage and parking	307.46
Payee $100 and over: Air California San Francisco, CA		$240.00	
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		reimbursement of expenses for bus fares, cabs, meals, supplies and parking (no payee $100 and over)	189.09
Jere Gilmour 16202 Melody Lane Huntington Beach, CA 92649		reimbursement of expenses for mileage, parking, meals, and telephone (no payee $100 and over)	146.43
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680		reimbursement of mileage and expenses for supplies	98.21
Rachel L. Kaldor 67 Duncan Way Oakland, CA 94611		reimbursement of mileage and expenses for parking and meals	45.35
Eileen Padberg 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of mileage	252.90
Up Front Productions 4230 Whitsett Ave., #8 Studio City, CA 91604		production of radio spots	5,000.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (see attachment for payees $100 and over)	85,262.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (see attachment for payees $100 and over)	146,250.00
A.L.N. Productions, Inc. 233 Sansome St., #1004 San Francisco, CA 94104		production of media ads	50,000.00

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 287,551.44

J.A. 229

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Public Action Consultants 7052 Orangewood Ave., #9 Garden Grove, CA 92641		printing and mailing	3,302.04
Public Action Consultants 7052 Orangewood Ave., #9 Garden Grove, CA 92641		printing and mailing	3,490.16
United Democratic Committee, ID #761387 1528 W. Santa Barbara Ave. Los Angeles, CA 90062		share in tabloid and mailing	10,000.00
U.S. Postmaster Santa Ana, CA 92701		postage for meter	1,000.00
Network Consultants 1930 Beverly Blvd. Los Angeles, CA 90057		consulting services	2,500.00
The Register P.O. Box 11867 Santa Ana, CA 92711		Advertisement	12.48
David's Restaurant 925 L. Street Sacramento, CA 95814		press conference expense	79.15
Serena R. Peck 11 Dusky Wing Irvine, CA 92714		reimbursement of mileage	8.10
Jeanne Patricia Dehaan 4060 California Norco, CA 91760		reimbursement of mileage	16.20
Audio-Video Reporting Services 5515 Cahuenga Blvd. North Hollywood, CA 91601		transcription services	430.00
Keith Wallace 2 Lake Trail Irvine, CA 92714		buttons	185.50

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 21,023.63

J.A. 229

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

LEG. NUMBER (IF COMMITTEE): 801906

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Porter Graphics 1228A Village Way Santa Ana, CA 92705		graphics	97.20
Think Word Processing 1510 E. Katella Ave. Anaheim, CA 92805		typewriter rental	185.50
Arrowhead Puritas Water P.O. Box 2293, Terminal Annex Los Angeles, CA 90051		drinking water	19.61
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		temporary office help	181.25
Xerox Corporation 1000 W. Temple Los Angeles, CA 90074		copier rental	121.90
J.M.J. Services 1107 - 9th St., #914 Sacramento, CA 95814		reimbursement of expenses for mileage, telephone, airfare, lodging and parking	1,172.4
Payees $100 and over: Air California Sacramento, CA		$528.00	
Saddleback Inn 1660 E. First St. Santa Ana, CA 92701		$300.95	
Budget Rent A Car 19051 Airport Way North Santa Ana, CA 92707		$153.99	
Spinell Printing 3828 Catalina St. Los Alamitos, CA 90720		printing	2,504.
Sir Speedy, No. 0112 1104 E. 17th St. Santa Ana, CA 91701		printing	343.
		SUBTOTALS	4,626.

[X] If more space is needed, check box at left and attach additional Schedules E.

J.A. 230

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

I.D. NUMBER (IF COMMITTEE): 801908

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Sir Speedy, No. 0112 1104 East 17th St. Santa Ana, CA 92701		printing	489.10
Marketing Associates 670 N. Batavia St. Orange, CA 92668		mailing and handling	108.18
Scott Lockwood 3737 Birch, Suite G. Newport Beach, CA 92660		photos	35.00
Marian Berzon Talent Agency 3723 Birch St., Bldg. 10 Newport Beach, CA 92660		photo session	112.50
Pacific Telephone 633 Folsom St., #770 San Francisco, CA 94107		telephone charges	857.57
Sutorius & Associates 1851 Langley Ave. Irvine, CA 92714		design and layout	2,284.94
Up Front Productions 4230 Whitsett Ave., #8 Studio City, CA 91604		media services and purchases (see attachment for payees $100 and over)	8,000.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (see attachment for payees $100 and over)	85,496.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (see attachment for payees $100 and over)	6,500.00
Western International Media 8732 Sunset Blvd. Los Angeles, CA 90069		media services and purchases (see attachment for payees $100 and over)	162,250.00
National Demographics 521 No. Mountain, #L Upland, CA 91786		consulting services	3,500.0
		SUBTOTALS	269,633.7

[X] If more space is needed, check box at left and attach additional Schedules E.

J.A. 231

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

I.D. NUMBER (IF COMMITTEE): 801908

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
U.S. Postmaster Sacramento, CA		postage	200.00
Antonello 3800 S. Plaza Drive Santa Ana, CA 92704		deposit for dinner expense	1,000.00
Dobbs & Nielsen Suite 2500, The Alcoa Building One Maritime Plaza San Francisco, CA 94111 Payee $100 and over: Public Sector 333 Kearney St., #510 San Francisco, CA 94108		payment for research $4,500.00	4,500.00
Dobbs & Nielsen Suite 2500, The Alcoa Building One Maritime Plaza San Francisco, CA 94111 payee $100 and over: Public Sector 333 Kearney St., #510 San Francisco, CA 94108		reimbursement of expenses for travel $1,936.58	1,936.58
Dobbs & Nielsen Suite 2500, The Alcoa Building One Maritime Plaza San Francisco, CA 94111 payee $100 and over: V. Lance Tarrance 3648 W. FM 1960 Houston, Texas 77068		payment for survey $25,600.00	25,600.00
Alpine Leasing & Investment 17 Buckthorn Irvine, CA 92714		rental of computer, program modification and supplies	1,819.60
Black Mountain Spring Water, Inc. 800 Alameda San Carlos, CA 94070		water services	25.5
Mike Roos for Assembly Comm., ID#779739 6255 Sunset Blvd., 20th Floor Los Angeles, CA 90028		share in slate mailing	1,500.0
		SUBTOTALS	36,581.

[X] If more space is needed, check box at left and attach additional Schedules E.

J.A. 232

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (if committee): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Airporter Inn Hotel P.O. Box 1910 Newport Beach, CA 92715		meeting expense	171.99
Think Word Processing, Inc. 1510 E. Katella Ave. Anaheim, CA 92805		typewriter rental	58.30
Spinell Printing 3628 Catalina St. Los Alamitos, CA 90720		printing	142.04
Sutorius & Associates 1881 Langley Ave. Irvine, CA 92714		brochure layout and design	835.71
Public Action Consultants 7052 Orangewood Ave., #9 Garden Grove, CA 92641		printing	980.36
Porter Graphics 1228A Village Way Santa Ana, CA 92705		graphics	445.41
Apple One Temporary Agency 1323 Lincoln Blvd. Santa Monica, CA 90401		temporary office help	290.00
Thor Temporary Services 4055 Wilshire Blvd. Los Angeles, CA 90010		temporary office help	164.75
Paul Stier 1623 Moreland Drive Alameda, CA 94501		reimbursement of expenses for office supplies	6.22
White Coyote Enterprises 58 Plaza Square, Suite J Orange, CA 92666		photos	204.90
Sir Speedy, No. 0112 1104 East 17th St. Santa Ana, Ca 92701		printing	11.66

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 3,311.34

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801906

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Audio-Video Reporting Services 5515 Cahuenga Blvd. North Hollywood, LA 91601		transcription services	115.00
Woodward, McDowell & Larson 233 Sansome St., #1004 San Francisco, CA 94104		reimbursement of expenses for photocopy, telephone, postage, and travel	382.45
payee $100 and over: Carlos Rodriguez 1412 Los Padres Way Sacramento, CA 95831		$235.67	
Paul Stier 1623 Moreland Drive Alameda, CA 94501		reimbursement of balance for travel expenses previously advanced	86.04
Payee $100 and over: Swift Aire Lines, Inc. San Francisco, CA		$110.00	
Cerrell Associates, Inc. 320 No. Larchmont Blvd. Los Angeles, CA 90004		fee for slate mailing	500.00
Rachel Kaldor 67 Duncan Way Oakland, CA 94611		reimbursement of expenses for mileage, parking and bus fare	39.30
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		reimbursement of expense for mileage (no payees $100 and over)	142.20
James G. McKinney 157 Seventh Avenue San Francisco, CA 94118		reimbursement expenses for mileage, parking and postage	26.40
Stephen M. Drake 6513 Corinne Circle Buena Park, CA 90620		reimbursement of expenses for mileage	38.88
Jolene R. Cook 68 Lake Pines Irvine, CA 92714		reimbursement of expenses for mileage, phtocopying and supplies (no payees $100 and over)	120.17

[X] If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 1,450.44

J.A. 234

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD: FROM 9/24/80 THROUGH 10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Dennis Freidenrich 325 Aliso Ave. Newport Beach, CA 92663		reimbursement of expenses for mileage	11.70
Eileen Padberg 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for mileage and parking	203.52
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680		reimbursement of expenses for mileage and supplies	40.77
Serena R. Peck 11 Dusky Wing Irvine, CA 92714		reimbursement of expenses for mileage	2.88
Karman Answering Service 2991 Grace Lane Costa Mesa, CA 92626		telephone answering service	76.40
Charles E. Porter dba Governmental Relations, Inc. 545 Mission Valley Center West San Diego, CA 92108		consulting services and reimbursement of telephone charge	806.75
Sir Speedy, 0112 1104 East 17th St. Santa Ana, CA 92701		printing	142.52
Audio-Video Reporting Services 5515 Cahuenga Blvd. North Hollywood, CA 91601		transcription services	35.00
Stephen Mark Drake 6513 Corinne Circle Buena Park, CA 90620		reimbursement of expenses for mileage	19.44
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		reimbursement of expenses for mileage, supplies and entertainment	93.61
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		reimbursement of expenses for mileage and supplies (no payee $100 and over)	109.36
		SUBTOTALS	1,541.9[illegible]

[X] If more space is needed, check box at left and attach additional Schedules E.

J.A. 235

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Think Word Processing 1510 E. Katella Ave. Anaheim, CA 92805		typewriter rental	116.60
Arrowhead Puritas Water P.O. Box 2293, Terminal Annex Los Angeles, CA 90051		water	7.74
James G. McKinney 157 Seventh Ave. San Francisco, CA 94118		reimbursement of expenses for airfare and parking	149.00
payee $100 and over: United Airlines San Francisco, CA		$143.00	
Robert Nelson & Associates, Inc. 1633 E. 4th St., #144 Santa Ana, CA 92701		reimbursement of expenses for telephone, postage, photocopies, mileage, travel, deliveries, telecopier	5,308.91
payees $100 and over: Pacific Telephone Santa Ana, CA		$582.53	
Travel Horizons 1001 Dove St., #160 Newport Beach, CA 92660		$1,126.90	
Delta Air Lines, Inc. Washington, D.C.		$151.00	
Sheraton Carlton Hotel 923 16th St., N.W. Washington, D.C.		$1,041.49	
AMFAC Hotels 8601 Lincoln Blvd. Los Angeles, CA 90045		$548.41	
4-Speed Delivery Service 18005 Sky Park Blvd. Irvine, Ca 92714		$373.00	
[X] If more space is needed, check box at left and attach additional Schedules E.		SUBTOTALS	5,582.25

J.A. 236

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Democrats for '80's, I.D. No. 801768 440 S. Doheny Beverly Hills, CA 90211		share in slate mailing	7,875.00
Parker & Son, Inc. 6500 Flotilla Los Angeles, CA		printing brochures	52,947.00
Friends of Paul Gann P.O. Box 13430-A Sacramento, CA 95813		purchase of polling data	750.00
Avril Archibald 68 Lakepines Irvine, Ca 92714		payroll	38.75
John J. Banaszewski 641 - 21st St., #3 San Diego, CA 92102		payroll	750.00
Jolene R. Cook 68 Lake Pines Irvine, CA 92714		payroll	750.00
Jeanne Patricia Dehaan 4060 California Norco, Ca 91760		payroll	500.00
Stephen Mark Drake 6513 Corinne Circle Buena Park, CA 90620		payroll	600.00
Dennis Freidenrich 325 Aliso Ave. Newport Beach, CA 92663		payroll	1,100.00
Jere M. Gilmour 16202 Melody Lane Huntington Beach, CA 92649		payroll	1,250.00
Sandra Kay Hetrick 14352 Mervyn Place Tustin, CA 92680		payroll	750.00
		SUBTOTALS	67,310.7

[X] If more space is needed, check box at left and attach additional Schedules E.

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Serena R. Peck 11 Dusky Wing Irvine, CA 92714		payroll	500.00
Mohammed Roshanai Chapman College Box 9342 Orange, Ca 92666		payroll	122.50
Emma M. Schafer 4201 Summertime Lane Culver City, CA 90230		payroll	900.00
Barry A. Schur 15130 Brookhurst, #179 Westminster, CA 92683		payroll	1,100.00
Nanette Marian Swick 939 S. Laurel Santa Ana, Ca 92704		payroll	35.00
Ruth Warkentin 425 South Broadway Santa Ana, CA 92701		payroll	26.25
Sheila Ann Malone 811 So. Fairview Avenue Santa Ana, CA 92701		payroll	345.44
Rachel L. Kaldor 67 Duncan Way Oakland, CA 94611		payroll	625.00
James G. McKinney 157 Seventh Ave. San Francisco, CA 94118		payroll	1,150.00
Paul Stier 1623 Moreland Drive Alameda, CA 94501		payroll	625.00
Security Pacific National Bank 6th & Flower Streets Los Angeles, CA 90017		payroll preparation charge	51.4
[X] If more space is needed, check box at left and attach additional Schedules E.		SUBTOTALS	5,480.6

J.A. 238

SCHEDULE E
PAYMENTS AND CONTRIBUTIONS MADE
(CONTINUATION SHEET)
FORM 420, 430 OR 490)

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD
FROM 9/24/80 THROUGH 10/20/80

NAME OF CANDIDATE OR COMMITTEE:
CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE)
801908

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION	IF CONTRIBUTION, CHECK HERE	DESCRIPTION OF EXPENDITURE	AMOUNT PAID
Internal Revenue Service 5045 E. Butler Avenue Fresno, CA 93888		Employer's payroll taxes	738.31
Woodward, McDowell & Larson 233 Sansome St., #1004 San Francisco, CA 94104		commission	18,824.00

☐ If more space is needed, check box at left and attach additional Schedules E.

SUBTOTALS 19,562.31

J.A. 239

Up Front Productions
4230 Whitsett Ave.
Studio City, CA 91604

Payees $100 and over:

XEBG (AM) 7373 University Avenue, Suite 208 La Mesa, CA 92041	204.00
XHQF (FM) 7373 University Avenue, Suite 208 La Mesa, CA 92041	142.80
KCAL (AM) Green Spot Rd. One mile East of the Church East Highland, CA 92329	446.25
KNSE (AM) 8729 E. Ninth St. Rancho Cucamonga, CA 91730	326.40
KWKW (AM) 6777 Hollywood Blvd. Hollywood, CA 90028	696.15
KTNQ (AM) 5724 Hollywood Blvd. Hollywood, CA 90028	714.00
KLVE (FM) 5724 Hollywood Blvd. Hollywood, CA 90028	714.00
KROQ (AM) 1330 So. Vermont Ave. Los Angeles, CA 90006	446.25
XPRS (AM) 1330 So. Vermont Ave. Los Angeles, CA 90006	382.50

CALIFORNIANS AGAINST REGULATORY EXCESS
I.D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Up Front Productions
4230 Whitsett Ave.
Studio City, CA 91604

Payees $100 and over:

KGST (AM) 2475 So. Hughes Fresno, CA 93706	244.80
KNTA (AM) 1241 Franklin Mall Santa Clara, CA 95052	303.45
KOFY (AM) 1818 Gilbreath Rd., Room 248 Burlingame, CA 94010	249.90
KBRG (FM) 1377 Market Street San Francisco, CA 94103	553.35
KIQI (AM) 2801 Mission Street San Francisco, CA 94110	321.30
KPIP (AM) 8842 Quail Lane Roseville, CA 95678	183.60
KOXR (AM) 418 W. Third Street Oxnard, CA 93030	336.60
KWAC (AM) 5200 Standrad Rd. Bakersfield, CA 93308	249.90

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KCOP 915 N. La Brea Avenue Hollywood, CA 90038	3,145.00
KHJ TV - RKO General, Inc. 5515 Melrose Avenue Hollywood, CA 90038	8,797.50
KCST TV - Western Telecasters, Inc. 8330 Engineer Rd. San Diego, CA 92111	4,934.25
KGTV - McGraw Hill Broadcasting Highway 94 at 47th St. San Diego, CA 92138	4,849.25
XETV TV - Bay City TV, Inc. 8253 Renson Rd. San Diego, CA 92111	1,402.50
KRON 1001 Van Ness Avenue San Francisco, CA 94119	10,072,50
KBHK TV - Field Communications 420 Taylor Street San Francisco, CA 94102	4,972.50
GILL CABLE 1304 North 4th Street San Jose, CA 95112	828.75
KACY FM 3434 Dodge Rd. Oxnard, CA 93030	275.40
KUNA FM Box 1400, 2895 S. Higuera St. San Luis Obispo, CA 93401	239.70

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KCRA TV - Kelly Broadcasting Co. 310 - 10th St. Sacramento, CA 95814	3,884.50
KXTV - Great Western Broadcasting Corp. 400 Broadway Sacramento, CA 95818	4,165.00
KOVR TV - McClatchy Broadcasting Co. 225 East Miner Ave., Box 2128 Stockton, CA 95201	3,000.50
KHSL - Golden Empire Broadcasting Box 489 Chico, CA 95926	374.00
KRCR TV - Sacramento Valley TV 2770 Pioneer Drive Redding, CA 96001	697.00
KCRA TV - Kelly Broadcasting Co. 310 - 10th Street Sacramento, CA 95814	1,997.50
KTXL TV - Camelia City Broadcasters, Inc. 4655 Fruitridge Rd. Sacramento, CA 95820	663.00
KXTV - Great Western Broadcasting Corp. 400 Broadway Sacramento, CA 95818	1,997.50
KFSD FM - Lotus Comm. Inc. 1540 6th Avenue San Diego, CA 92101	743.75
KTLA TV - Golden West Broadcasters 5800 Sunset Blvd. Los Angeles, CA 90028	5,525.00

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KERO TV - McGraw Hill Broadcasting 321 - 21st St. Bakersfield, CA 93301	922.25
KMJ - McClatchy Broadcasting Co. 3636 North First St., #106 Fresno, CA 93726	1,330.25
KMPH TV - Pappas Telecasting Inc. 2600 So. Mooney Blvd. Visalia, CA 93277	284.75
KFSN TV - Capital Cities Comm. 1777 G Street Fresno, CA 93706	1,406.75
KRON 1001 Van Ness Avenue San Francisco, CA 94119	28,623.75
KBHK TV - Field Communications 420 Taylor Street San Francisco, CA 94102	8,925.00
GILL CABLE 1304 North 4th Street San Jose, CA 95112	828.75
XETV TV - Bay City TV, Inc. 8253 Renson Rd. San Diego, CA 92111	3,761.25
KCST TV - Western Telecasters, Inc. 8330 Engineer Rd. San Diego, CA 92111	4,823.75
KGTV - McGraw Hill Broadcasting Highway 94 at 47th St. San Diego, CA 92138	3,820.75

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KHJ TV - RKO General, Inc. 5515 Melrose Avenue Hollywood, CA 90038	10,455.00
KIEM TV - California Oregon Radio Co. 5650 So. Broadway Eureka, CA 95501	289.85
KVIQ TV - California NW Broadcasting Co. 1800 Broadway Eureka, CA 95501	497.25
KNTV 645 Park Avenue San Jose, CA 95110	2,805.00
KSBW TV - Blair Broadcasting of CA 238 John Street Salinas, CA 93901	1,700.00
KEYT 2225 Coburg Rd. Eugene, OR 94701	692.75
KSBY TV Hill and Mountain View San Luis Obispo, CA 93401	1,827.50
KCOY TV - Central Coast Broadcasters 1503 North McClelland Santa Maria, CA 93454	450.50
KPWR TV - Gillett Broadcasting Co. 2831 Eye Street Bakersfield, CA 93301	410.55
KBAK TV - Harriscope Broadcasting Corp. 2210 Chester Ave. Bakersfield, CA 93301	1,151,75

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KMEN/KGGI Box 1290, 2255 E. Bessant St. San Bernardino, CA 92402	367.20
KFXM/KDUO Holiday Inn, Suite 590 666 Fairway Dr. San Bernardino, CA 92408	846.60
KBON/KDIG 992 Inland Center Dr. San Bernardino, CA 92408	734.40
KPRO AM 3701 Merrill, Box 1440 Riverside, CA 92502	247.86
KMJ - McClatchy Broadcasting Co. 3636 North First St., #106 Fresno, CA 93726	51.00
KHSL 180 E. 4th St. Chico, CA 95927	374.00
KRCR TV - Sacramento Valley TV 2770 Pioneer Drive Redding, CA 96001	1,130.50
KTTV - Metromedia TV 5746 Sunset Blvd. Los Angeles, CA 90028	10,625.00
KCOP 915 N. La Brea Avenue Hollywood, CA 90038	6,035.00
KTLA TV - Golden West Broadcasters 5800 Sunset Blvd. Los Angeles, CA 90028	16,277.50

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KWAV FM - A-B Chemical Corp. 46 Garden Court Monterey, CA 93940	285.60
KCLM Box KCLM, 2235 Cliff Dr. Redding, CA 96001	197.20
KQMS - Barker Broadcasting Box 1400, 3360 Alta Mesa Redding, CA 96001	157.08
KRDG - Redding Broadcasting Box 1917, 1735 Market St. Redding, CA 96001	199.24
KSXO - Norcal Broadcasting Box 1918 Redding, CA 96001	211.06
KFBK - McClatchy Broadcasting Box 15779, 21st and Q Streets Sacramento, CA 95813	413.10
KXOA - KXOA, Inc. Box 1677, 1017 Front St. Sacramento, CA 95808	459.00
KGMS - Kula Broadcasting 937 Enterprise Dr. Sacramento, CA 95825	877.63
KRAK - Affiliated Broadcasting Box 60408 Sacramento, CA 95860	1,107.55
KAER FM - McClatchy Broadcasting 21st and Q Streets Sacramento, CA 95813	122.40

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KAAP AM/FM Box 1400, Saticoy Dr. Ventura, CA 93003	229.84
KBBQ Box 5151 Ventura, CA 93003	287.30
KACY AM/FM 3434 Dodge Rd. Oxnard, CA 93030	550.80
KJOY/KJAX - Joseph Gamble Stations, Inc. 110 N. El Dorado St. Stockton, CA 95202	673.20
KWG 1325 Center St. Stockton, CA 95202	223.55
KHSL - Golden Empire Broadcasting Box 489 Chico, CA 95926	153.99
KFMF Box 266 Chico, CA 95927	188.70
KDON - Forrest Cal Central Corp. AM/FM Box 1460 Salinas, CA 93901	530.40
KIDD - Walton Radio 2550 Garden Road Monterey, CA 93940	246.50
KTOM/KMYT FM - Monterey Peninsula Comm. 933 North Main Salinas, CA 93901	775.20

J.A. 248

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KUNA FM - San Luis Obispo Broadcasting 2895 So. Higuera St., Box 1400 San Luis Obispo, CA 93401	239.70
KVEC Box 767, 820 Walnut St. San Luis Obispo, CA 93401	170.34
KPSI AM - KPSI Radio Corp. 174 North Palm Canyon Drive Palm Springs, CA 92262	144.02
KPSI FM - KPSI Radio Corp. 174 North Palm Canyon Drive Palm Springs, CA 92262	81.87
KCMS FM - Classic Broadcasting, Inc. 81909 Indio Blvd., Box 1856 Indio, CA 92201	187.85
KGUY 74290 Hwy. 111 Palm Desert, CA 92260	163.20
KMXY - Glen Barnett 68700 Avenue 34 Palm Springs, CA 92262	164.69
KCHV 84115 Indio Blvd. Indio, CA 92201	211.23
KCMJ - Westminster Broadcasting 300 Radio Road, Box 1626 Palm Springs, CA 92262	122.40
KDES FM - Tourtelot Broadcasting Co. 321 North Palm Canyon Drive Palm Springs, CA 92262	192.78

J.A. 249

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KOWN Box 398, 1523 E. Valley Pkwy. Escondido, CA 92025	346.80
KCSB AM/FM - Pacific Broadcasting Co. 23 West Micheltorena St. Santa Barbara, CA 93101	612.00
KIST - Radio Santa Barbara, Inc. 735 State St. Santa Barbara, CA 93101	326.40
KCMS AM/FM - Santa Barbara News Newspress Building, Drawer NN Santa Barbara, CA 93102	231.20
KTRB Box 3839 Modesto, CA 95352	491.30
KFIV AM/FM 2437 E. Orangeburg Ave. Modesto, CA 95350	786.25
KCEY/KYIX 4043 Geer Rd. Modesto, CA 95354	563.55
KATY - Riverside Broadcasting 1146 Monterey Street, Box 841 San Luis Obispo, CA 93401	153.00
KKAL AM - Kal Koast Radio Corp. Box 220, 129 N. Halycon Arroyo Grande, CA 93420	204.00
KSLY AM - San Luis Obispo Broadcasting 2895 So. Higuera St., Box 1400 San Luis Obispo, CA 93401	272.00

U.A. 250

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KSON - Broadmoor Broadcasting Corp. College Grove Center, Hwy. 94 at College Avenue San Diego, CA 92115	938.40
KOGO - SBI Box 545 San Diego, CA 92112	506.60
KYXY 8033 N. Linda Vista Rd. San Diego, CA 92111	904.40
XTRA AM - Noble Multimedia Comm. 1250 Sixth Avenue San Diego, CA 92101	1,020.00
KMJC - Lee Bartell and Assoc. 2262 Fletcher Pkwy., Box 2908 San Diego, CA 92112	612.00
KCBQ, Inc. Box 1629 San Diego, CA 92112	1,020.00
KBZT FM - Force Comm. Corp. 7867 Convoy Court, Suite 303 San Diego, CA 92111	897.60
KSDO/KEZL 3180 University Ave. San Diego, CA 92104	1,687.25
KUDE/KJFM - Dolph-Pettey Broadcasting Co. Box K1320, 2950 Oceanside Blvd. Oceanside, CA 92054	636.48
KMLO Box 1000, 1591B E. Vista Way Vista, CA 92083	285.60

J.A. 251

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D, No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KAFY - Sunset Broadcasting Box 6128 Bakersfield, CA 93306	432.07
KNTB/KLYD - Reliable Broadcasting 924 Truxton Ave. Bakersfield, CA 93301	510.00
KCHM/KGFM - Klee, Inc. 207 Truxton Ave. Bakersfield, CA 93302	326.40
KATA AM - Quail Communications Drawer Eye, So. G Street Arcata, CA 95521	169.58
KEKA - Eureka Broadcasting Box 1386, 530 E Street Eureka, CA 95501	137.70
KINS - Eureka Broadcasting Box O, 1101 Marsh Rd. Eureka, CA 95501	161.08
KRED - Pauldon, Inc. 5640 S. Broadway Eureka, CA 95501	158.10
KXGO FM - Winters Broadcasting Co. Drawer QQ, 773 8th St. Arcata, CA 95521	153.00
KFMI - C & M Broadcasting, Inc. Box 3718, 327 Second St. Eureka, CA 95501	195.50
KFSD FM - Lotus Communications, Inc. 1540 6th Ave. San Diego, CA 92101	743.75

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KGFJ/KUTE - Inner City Broadcasting 5900 Wilshire Blvd. Los Angeles, CA 90036	1,275.00
KIQQ FM - The Outlet Co. 6430 Sunset Blvd. Hollywood, CA 90028	1,300.50
KJOI FM 2555 Briarcrest Rd. Beverly Hills, CA 90210	1,560.60
KKGO - Mt. Wilson Broadcasters 10880 Wilshire Blvd. Los Angeles, CA 90024	918.00
KLAC - Metromedia Radio 5746 Sunset Blvd. Los Angeles, CA 90028	2,839.00
KRLA AM - KRLA, Inc. 1401 So. Oak Knoll Pasadena, CA 91109	1,428.00
KWVE FM - El Camino Broadcasting 800 El Camino Real San Clemente, CA 92672	321.30
KZLA AM/FM - Capital Cities Broadcasting 5700 Sunset Blvd. Los Angeles, CA 90028	1,406.75
KPMC AM - Dan B. Speare Enterprises 307 E. 21st St., Bin 1736 Bakersfield, CA 93302	249.90
KERN Box 2700, 5600 Plaz Rd. Bakersfield, CA 93309	275.40

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KFRE AM - Broadcasting, Inc. 999 No. Van Ness Avenue Fresno, CA 93728	464.10
KARM AM 732 N. Van Ness Avenue Fresno, CA 93728	498.95
KIOV 12592 S. Cedar Ave. Fresno, CA 93725	532.95
KFYE - Stereo Broadcasting Corp. Fresno Town House, #535 Fresno, CA 93721	632.40
KACE FM 1710 E. 111th St. Los Angeles, CA 90059	632.40
KDAY - Rollins Broadcasting of Delaware 1700 N. Alvarado Los Angeles, CA 90026	2,231.25
KFAC - ASI Communications, Inc. AM/FM 5773 Wilshire Blvd. Los Angeles, CA 90036	2,856.00
KFWB - Westinghouse Broadcasting Corp. 6230 Yucca St. Los Angeles, CA 90028	1,559.75
KGIL - Buckley Broadcasting Corp. AM/FM 14800 Lassen St. San Fernando, CA 91345	897.60
KHJ AM - KHJ Radio 5515 Melrose Avenue Hollywood, CA 90038	1,785.00

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KNEW - Metromedia Radio 66 Jack London Square Oakland, CA 94607	905.25
KOIT FM - Bonneville International Corp. 600 Montgomery St. San Francisco, CA 94111	688.50
KSFO - Golden West Broadcasting 950 California St. San Francisco, CA 94108	654.50
KBAY FM - United Broadcasting 1245 S. Winchester Blvd. San Jose, CA 95128	993.65
KEEN - United Broadcasting 1245 S. Winchester Blvd. San Jose, CA 95128	616.25
KLOK - Radio KLOK, Inc. Box 21248 San Jose, CA 95151	1,122.00
KMJ - McClatchy Broadcasting 3636 North First St., #106 Fresno, CA 93726	571.20
KMAK - McCarthy Broadcasting Co., Inc. 2020 East McKinley Ave. Fresno, CA 93703	470.48
KKNU FM E.W. - FM Group, Inc. 1031 East Belmont Ave. Fresno, CA 93701	714.00
KYNO - Radio KYNO, Inc. 2125 North Barton Fresno, CA 93703	938.40

J.A. 255

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KAER FM - McClatchy Broadcasting 21st and Q Streets Sacramento, CA 95813	122.40
KMPC - Golden West Broadcasters 5858 Sunset Blvd. Los Angeles, CA 90028	1,377.00
KABL AM/FM - Shamrock Broadcasting 632 Commercial Street San Francisco, CA 94111	1,040.40
KFOG FM - General Electric Broadcasting 900 N. Point San Francisco, CA 94109	629.00
KFRC AM - RKO General, Inc. 415 Bush Street San Francisco, CA 94108	3,905.75
KIBE/KDFC 900 N. Point St. San Francisco, CA 94109	637.50
K101 FM - Pacific FM Inc. 700 Montgomery St. San Francisco, CA 94111	1,147.50
KKHI AM/FM - Buckley Broadcasting St. Francis Hotel, Union Square San Francisco, CA 94119	850.00
KMPX FM - Golden Gate Radio, Inc. 655 Sutter St. San Francisco, CA 94102	709.75
KNBR - NBC, Inc. 1700 Montgomery St. San Francisco, CA 94111	2,315.40

J.A. 256

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KIQQ FM - The Outlet Co. 6430 Sunset Blvd. Hollywood, CA 90028	1,300.50
KKGO - Mt. Wilson Broadcasters 10880 Wilshire Blvd. Los Angeles, CA 90024	918.00
KLAC - Metromedia Radio 5746 Sunset Blvd. Los Angeles, CA 90028	2,839.00
KRLA AM - KRLA, Inc. 1401 So. Oak Knoll Pasadena, CA 91109	1,428.00
KWVE FM - El Camino Broadcasting 800 El Camino Real San Clemente, CA 92672	321.30
KZLA FM - Capital Cities Broadcasting 5700 Sunset Blvd. Los Angeles, CA 90028	1,406.75
KFBK - McClatchy Broadcasting Box 15779, 21st and Q Sts. Sacramento, CA 95813	413.10
KXOA FM - KXOA, Inc. Box 1677, 1017 Front St. Sacramento, CA 95808	459.00
KGMS - Kula Broadcasting 937 Enterprise Dr. Sacramento, CA 95825	877.63
KRAK - Affiliated Broadcasting Box 60408 Sacramento, CA 95860	2,042.42

J.A. 257

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KRED - Pauldon, Inc. 5640 S. Broadway Eureka, CA 95501	158.10
KXGO FM - Winter Broadcasting Co. Drawer QQ, 773 8th St. Arcata, CA 95521	153.00
KFXI FM - C & M Broadcasting, Inc. 327 Second St., Box 3718 Eureka, CA 95501	195.50
KACE FM 1710 E. 111th St. Los Angeles, CA 90059	632.40
KDAY - Rollins Broadcast of Delaware 1700 N. Alvarado Los Angeles, CA 90026	2,231.25
KFAC AM/FM - ASI Communications, Inc. 5773 Wilshire Blvd. Los Angeles, CA 90036	2,856.00
KFWB - Westinghouse Broadcasting Corp. 6230 Yucca St. Los Angeles, CA 90028	1,559.75
KGIL AM/FM - Buckley Broadcasting Corp. 14800 Lassen St. San Fernando, CA 91345	897.60
KHJ AM - KHR Radio 5515 Melrose Avenue Hollywood, CA 90038	1,785.00
KGFJ/KUTE - Inner City Broadcasting 5900 Wilshire Blvd. Los Angeles, CA 90036	1,275.00

J.A. 258

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KBAY 1245 S. Winchester Blvd. San Jose, CA 95128	993.65
KEEN 1245 S. Winchester Blvd. San Jose, CA 95128	616.25
KLOK - Radio KLOK Inc. Box 21248 San Jose, CA 95151	1,122.00
KMEN AM/KGGI FM - Dollar Broadcasting 3610 Central Avenue, Suite 520 Riverside, CA 92506	367.20
KFXM/KDUC Holiday Inn, Suite 590 666 Fairway Drive San Bernardino, CA 92408	788.80
KBON FM/KDIG AM 992 Inland Center Drive San Bernardino, CA 92408	734.40
KPRO AM 3701 Merrill, Box 1440 Riverside, CA 92502	247.86
KATA AM - Quail Communications Drawer Eye, So. G Street Arcata, CA 95521	169.58
KEKA - Eureka Broadcasting Box 1386, 530 E Street Eureka, CA 95501	137.70
KINS - Eureka Broadcasting Box 0, 1101 Marsh Rd. Eureka, CA 95501	146.29

J.A. 259

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KFMF Box 266 Chico, CA 95927	188.70
KTRB Box 3839 Modesto, CA 95352	491.30
KFIV 2437 E. Orangeburg Ave. Modesto, CA 95350	786.25
KCEY/KMIX 4043 Geer Rd. Modesto, CA 95354	563.55
KJOI/KJAX Joseph Gamble Stations, Inc. 110 N. El Dorado St. Stockton, CA 95202	673.20
KWG 1325 Center St. Stockton, CA 95202	223.55
KWAV FM A-B Chemical Corporation 46 Garden Court Monterey, CA 93940	285.60
KTOM/KMYT FM-Monterey Peninsula Communications 933 North Main Salinas, CA 93901	775.20
KIDD Walton Radio 2550 Garden Rd. Monterey, CA 93940	246.50
KDON Forrest Cal Central Corporation Box 1460 Salinas, CA 93901	530.40

U.A. 260

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KFSD-Lotus Communications, Inc. 1540 Sixth Ave. San Diego, CA 92101	743.75
KSON-Broadmoor Broadcasting Corp. College Grove Center Hwy 94 at College Ave. San Diego, CA 92115	938.40
KOGO-SBI Box 545 San Diego, CA 92112	506.60
KIXY 8033 N. Linda Vista Rd. San Diego, CA 92111	904.40
XTRA-Noble Multimedia Communications 1250 Sixth Ave. San Diego, CA 92101	1,020.00
KCBQ Inc. Box 1629 San Diego, CA 92112	1,020.00
KBZT FM-Force Communications Corp. 7867 Convoy Court, Suite 303 San Diego, CA 92111	897.60
KSDO/KEZL 3180 University Ave. San Diego, CA 92104	1,687.25
KUDE/KJFM Box K 1320 Oceanside, CA 92054	636.48
KXLO Box 1000 15913 E. Vista Way Vista, CA 92083	285.60

J.A. 261

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KOWN Box 398 1523 E. Valley Pkwy Escondido, CA 92025	346.80
KPMC AM-Dan B. Speare Enterprises 307 E. 21st St., Bin 1736 Bakersfield, CA 93302	249.90
KERN Box 2700 5600 Planz Rd. Bakersfield, CA 93309	275.40
KAFY-Sunset Broadcast Box 6128 Bakersfield, CA 93306	432.07
KCTB AM-Reliable Broadcasting 924 Truxton Bakersfield, CA 93301	224.40
KLYD FM-Reliable Broadcasting 924 Truxton Bakersfield, CA 93301	285.60
KGAM AM/FM Klee, Inc. 207 Truxton Ave Bakersfield, CA 93302	326.40
KAAP Box 1400 Saticoy Dr. Ventura, CA 93003	229.84
KBBQ Box 5151 Ventura, CA 93003	287.30

J.A. 262

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KHAY 3897 Market St. Ventura, CA 93003	169.75
KVEN 3897 Market St. Ventura, CA 93003	255.43
KMJ McClatchy Broadcasting Co. 3636 North First St., #106 Fresno, CA 93726	571.20
KMAK McCarthy Broadcasting Co., Inc. 2020 East McKinley Ave. Fresno, CA 93703	470.48
KKDU FM E.W. - FM Group, Inc. 1031 East Belmont Ave. Fresno, CA 93701	714.00
KYNO Radio KYNO Inc. 2125 North Barton Fresno, CA 93703	938.40
KARM AM 732 N. Van Ness Ave. Fresno, CA 93728	498.95
KIOY 12592 S. Cedar Ave. Fresno, CA 93725	532.95
KFYE Stereo Broadcasting Corp. Fresno Town House, #535 Fresno, CA 93721	632.40
KABL A & FM-Shamrock Broadcasting 632 Commercial St. San Francisco, CA 94111	1,040.40

J.A. 263

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KFOG FM-General Electric Broadcasting 900 N. Point San Francisco, CA 94109	629.00
KFRC AM RKO General Inc. 415 Bush St. San Francisco, CA 94108	3,905.75
KTBE/KDFC 900 N. Point St. San Francisco, CA 94109	637.50
KIOI FM Pacific FM Inc. 700 Montgomery St. San Francisco, CA 94111	1,147.50
KSFH A & FM-Buckley Broadcasting St. Francis Hotel, Union Square San Francisco, CA 94119	850.00
KMPX FM Golden Gate Radio, Inc. 655 Sutter St. San Francisco, CA 94102	709.75
KNBR-NBC Inc. 1700 Montgomery St. San Francisco, CA 94111	2,315.40
KNEW-Metromedia Radio 66 Jack London Square Oakland, CA 94607	905.25
KOIT FM-Bonneville International Corp. 600 Montgomery St. San Francisco, CA 94111	686.50
KSFO-Golden West Broadcasting 950 California Street San Francisco, CA 94108	654.50

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KPSI AM/FM Radio Corp.
174 North Palm Canyon Dr.
Palm Springs, CA 92262 — 225.89

KCMS FM Classic Broadcasting Inc.
81909 Indio Blvd., Box 1856
Indio, CA 92201 — 187.85

KGUY
74290 Hwy 111
Palm Desert, CA 92260 — 163.20

KWXY Glen Barnett
68700 Avenue 34
Palm Springs, CA 92262 — 164.69

KCHV
84115 Indio Blvd.
Indio, CA 92201 — 211.23

KCMJ Westminster Broadcasting
300 Radio Rd., Box 1626
Palm Springs, CA 92262 — 122.40

KDES AM/FM Tourtelot Broadcasting Co.
321 North Palm Canyon Dr.
Palm Springs, CA 92262 — 192.78

KATY Riverside Broadcasting Co.
1146 Monterey St., Box 841
San Luis Obispo, CA 93401 — 153.00

KKAL AM Kal Koast Radio Corp.
Box 220
129 N. Halycon
Arroyo Grande, CA 93420 — 204.00

KSLY AM KUNA FM
San Luis Obispo Broadcasting Inc.
2895 So. Higuera St., Box 1400
San Luis Obispo, CA 93401 — 272.00

J.A. 265

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KUNA FM Box 1400 2895 S. Higuera St. San Luis Obispo, CA 93401	239.70
KVEC Box 787 820 Walnut St. San Luis Obispo, CA 93401	170.34
KCS A & F Pacific Broadcasting Co. 23 West Micheltorena Street Santa Barbara, CA 93101	612.00
KIST Radio Santa Barbara Inc. 735 State Street Santa Barbara, CA 93101	326.40
KTMS A & F Santa Barbara News Newspress Building Drawer NN Santa Barbara, CA 93102	231.20
KCLM Box KCLM, 2235 Cliff Dr. Redding, CA 96001	197.20
KQMS Barker Broadcasting Box 1400, 3360 Alta Mesa Redding, CA 96001	157.08
KRDG Redding Broadcasting Box 1917, 1735 Market St. Redding, CA 96001	199.24
KSXO Norcal Broadcasting Box 1918 Redding, CA 96001	211.06
KHSL 180 E. 4th St. Chico, CA 95927	153.99

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KPWR - Gillett Broadcasting Co. 2831 Eye Street Bakersfield, CA 93301	211.65
KERO TV McGraw Hill Broadcasting 321 - 21st Street Bakersfield, CA 93301	556.75
KBAK TV - Harriscope Broadcasting Corp. 2210 Chester Ave. Bakersfield, CA 93301	1,266.50
KTLA TV Golden West Broadcasters 5800 Sunset Blvd. Los Angeles, CA 90028	16,277.50
KNBC TV RKO General, Inc. 5515 Melrose Ave. Hollywood, CA 90038	10,455.00
KTTV Metromedia TV 5746 Sunset Blvd. Los Angeles, CA 90028	10,625.00
KCOP 915 N. La Brea Ave. Hollywood, CA 90038	6,035.00
KVIQ TV California NW Broadcasting Co. 1800 Broadway Eureka, CA 95501	386.75
KIEM TV California Oregon Radio Co. 5650 So. Broadway Eureka, CA 95501	289.85
KMJ McClatchy Broadcasting Co. 3636 No. First St., #106 Fresno, CA 93726	1,381.25

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KMPH TV Pappas Telecasting Inc. 2600 So. Mooney Blvd. Visalia, CA 93277	284.75
KFSN TV Capital Cities Communications 1777 G Street Fresno, CA 93706	1,321.75
KCRA TV Kelly Broadcasting Co. 310 - 10th Street Sacramento, CA 95814	3,884.50
KXTV Great Western Broadcasting Corp. 400 Broadway Sacramento, CA 95818	4,165.00
KOVR TV McClatchy Broadcasting Co. 225 East Miner Ave, Box 2128 Stockton, CA 95201	3,000.50
KTXL TV Camelia City Broadcasters, Inc. 4655 Fruitridge Rd. Sacramento, CA 95820	884.00
KSBW TV Blair Broadcasting of California 238 John Street Salinas, CA 93901	1,785.00
KNTV 645 Park Ave. San Jose, CA 95110	3,400.00
XETV TV Bay City Tv Inc. 8253 Renson Rd. San Diego, CA 92111	3,761.25
KCST TV Western Telecasters Inc. 8330 Engineer Rd. San Diego, CA 92111	4,823.75

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KGTV McGraw Hill Broadcasting Highway 94 at 47th St. San Diego, CA 92138	4,288.25
KCOX TV Cox Cable Communications Inc. Box 19700 San Diego, CA 92119	425.00
KEYT TV Key Television Inc. 730 Mira Monte Drive Santa Barbara, CA 93109	692.75
KSBY TV Hill and Mountain View San Luis Obispo, CA 93401	1,827.50
KCOY TV Central Coast Broadcaster 1503 North McClelland Santa Maria, CA 93454	450.50
KHSL 180 E. 4th St. Chico, CA 95927	374.00
KBHK TV Field Communications 420 Taylor Street San Francisco, CA 94102	8,925.00
GILL CABLE 1304 North 4th Street San Jose, CA 95112	828.75
KRCR TV Sacramento Valley TV 2770 Pioneer Drive Redding, CA 96001	2,533.00
KHSL - Golden Empire Broadcasting Box 489 Chico, CA 95926	276.25

J.A. 269

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KRON 1001 Van Ness Avenue San Francisco, Ca 94119	21,653.75
KERO TV McGraw Hill Broadcasting 321 21st Street Bakersfield, CA 93301	429.25
KETV TV Bay City TV Inc. 8253 Renson Rd. San Diego, CA 92111	3,761.25
KGTV McGraw Hill Broadcasting Highway 94 at 47th Street San Diego, CA 92138	4,288.25
KCST TV Western Telecasters Inc. 8330 Engineer Rd. San Diego, CA 92111	3,973.75
KCOX TV Cox Cable Communications, Inc. Box 19700 San Diego, CA 92119	340.00
KRON Chronicle Broadcasting Co., 1001 Van Ness Ave., San Francisco, CA 94119	32,023.75
KCRA TV Kelly Broadcasting Co. 310 - 10th Street Sacramento, CA 95814	1,700.00
KIFM - West Coast Media Inc. 3232 Governor Drive, Suite A San Diego, CA 92122	1,020.00

U.A. 270

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KSON A/F - Broadmoor Broadcasting Corp. College Grove Center, Hwy 94 at College Ave. San Diego, CA 92115	938.40
KOGO - SBI Box 545 San Diego, CA 92112	506.60
KYXY 8033 N. Linda Vista Rd. San Diego, CA 92111	904.40
XTRA - Noble Multimedia Comm. 1250 Sixth Avenue San Diego, CA 92101	1,020.00
KCBQ Inc. Box 1629 San Diego, CA 92112	1,020.00
KEZT FM - Force Comm. Corp. 7867 Convoy Court, Suite 303 San Diego, CA 92111	897.60
KSDO/KEZL 3180 University Ave. San Diego, CA 92104	1,687.25
KUDE/KJFM - Dolph-Pettey Broadcasting Co. Box K 1320, 2950 Oceanside Blvd. Oceanside, CA 92054	636.48
KMLO Box 1000, 159B E. Vista Way Vista, CA 92083	285.60
KOWN Box 398, 1523 E. Valley Pkwy. Escondido, CA 92025	346.80

J.A. 271

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KACE FM 1710 E. 111th St. Los Angeles, CA 91159	632.40
KDAY Rollins Broadcast of Del. 1700 N. Alvarado Los Angeles, CA 90026	2,231.25
KFAC A/F ASI Communications Inc. 5773 Wilshire Blvd. Los Angeles, CA 90036	2,856.00
KFWB Westinghouse Broadcasting Corp. 6230 Yucca St. Los Angeles, CA 90028	1,559.75
KSBW TV Blair Broadcasting of CA 238 John Street Salinas, CA 93901	1,700.00
KGIL A/F Buckley Broadcasting Corp. 14800 Lassen St. San Fernando, CA 91345	897.00
KHJ AM KHJ RADIO 5515 Melrose Avenue Hollywood, CA 90038	1,785.00
KGFJ/KUTE Inner City Broadcasting 5900 Wilshire Blvd. Los Angeles, CA 90035	1,285.00
KIQQ FM The Outlet Co. 6430 Sunset Blvd. Hollywood, CA 90028	1,300.50

J.A. 272

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KKGO Mt. Wilson Broadcasters 10880 Wilshire Blvd. Los Angeles, CA 90024	918.00
KLAC - Metromedia Radio 5746 Sunset Blvd. Los Angeles, CA 90028	2,839.00
KRLA AM KRLA Inc. 1401 So. Oak Knoll Pasadena, CA 91109	1,428.00
KWVE FM El Camino Broadcasting 800 El Camino Real San Clemente, CA 92672	321.30
KZLA FM Capital Cities Broadcasting 5700 Sunset Blvd. Los Angeles, CA 90028	1,406.75
KBIG - FM Bonneville Corp. 7755 Sunset Blvd. Los Angeles, CA 90046	1,581.00
KNX FM - CBS Radio 6121 Sunset Blvd. Los Angeles, CA 90028	170.00
KMPC - Golden West Broadcasters 5858 Sunset Blvd. Los Angeles, CA 90028	1,377.00
KPOP FM Box 1110 8842 Quail Lane Roseville, Calif. 95678	229.50
KBAY FM/KEEN - United Broadcasting 1245 S. Winchester Blvd. San Jose, CA 95128	993.65

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KEEN 1245 S. Winchester Blvd. San Jose, CA 95128	616.25
KLOK - Radio KLOK Inc. Box 21248 San Jose, CA 95151	1,122.00
KPFI/KBLX - Inner City Broadcasting 601 Ashby Avenue Berkeley, CA 94107	1,683.00
KSOL FM KSOL Radio 1730 So. Amphlett Blvd. San Mateo, CA 94402	816.00
KDIA Box 8432 Oakland, CA 94662	1,020.00
KABL A & FM - Shamrock Broadcasting 632 Commercial Street San Francisco, CA 94111	1,040.40
KFOG FM - General Electric Broadcasting 900 N. Point San Francisco, CA 94109	629.00
KFRC AM RKO General Inc. 415 Bush Street San Francisco, CA 94108	3,905.75
KIBE/KDFC 900 N. Point St. San Francisco, CA 94109	637.50
K101 FM Pacific FM Inc. 700 Montgomery Street San Francisco, CA 94111	1,147.50

J. A. 274

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KKHI A & FM - Buckley Broadcasting St. Francis Hotel, Union Square San Francisco, CA 94119	850.00
KMPX FM Golden Gate Radio, Inc. 655 Sutter Street San Francisco, CA 94102	709.75
KNBR - NBC Inc. 1700 Montgomery Street San Francisco, CA 94111	2,315.00
KNEW - Metromedia Radio 66 Jack London Square Oakland, CA 94607	905.25
KOIT FM - Bonneville Int'l Corp. 600 Montgomery Street San Francisco, CA 94111	682.50
KSFO - Golden West Broadcasting 950 California Street San Francisco, CA 94108	654.50
KCBS FM CBS Radio Div. of CBS Inc. 1 Embarcadero Center San Francisco, CA 94111	104.55
KATY Riverside Broadcasting Co. 1146 Monterey Street, Box 841 San Luis Obispo, CA 93401	153.00
KKAL AM Kal Koast Radio Corp Box 220, 129 N. Haycon Arroyo Grande, CA 93420	204.00
KSLY AM San Luis Obispo Broadcasting Inc. 2895 So. Higuera Street, Box 1400 San Luis Obispo, CA 93401	272.00

J.A. 275

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KUNA FM San Luis Obispo Broadcasting, Inc. 2895 So. Higuera Street, Box 1400 San Luis Obispo, CA 93401	239.70
KVEC Box 787, 820 Walnut St. San Luis Obispo, CA 93401	170.34
KHSL - Golden Empire Broadcasting Box 489 Chico, CA 95926	153.99
KFMF Box 266 Chico, CA 95927	188.70
KMEN AM/KGGI FM Dollar Broadcasting 3610 Central Avenue, Suite 520 Riverside, CA 92506	367.20
KFXM/KDUO FM Holiday Inn, Suite 590 666 Fairway Drive San Bernardino, CA 92408	817.70
KBON FM/KDIG AM 992 Inland Center Dr. San Bernardino, CA 92408	734.40
KPRO AM 3701 Merrill, Box 1440 Riverside, CA 92502	247.86
KATA AM-Quail Communications Drawer Eye, So. G. Street Arcata, CA 95521	169.58

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KEKA - Eureka Broadcasting Box 1386, 530 E Street Eureka, CA 95501	137.70
KINS - Eureka Broadcasting Box O, 1101 Marsh Rd. Eureka, CA 95501	153.68
KFED - Pauldon, Inc. 5640 S. Broadway Eureka, CA 95501	158.10
KNGO FM - Winters Broadcasting Co. Drawer QQ, 773 8th St. Arcata, CA 95521	153.00
KFMI (FM) C & M Broadcasing, Inc. Box 3718, 327 Second St. Eureka, CA 95501	195.50
KCLM Box KCLM, 2235 Cliff Dr. Redding, CA 96001	197.20
KQMS Box 1400, 3360 Alta Mesa Redding, CA 96001	157.08
KRDG - Redding Broadcasting Box 1917, 1735 Market St. Redding, CA 96001	199.24
KSXO - Norcal Broadcasting Box 1918 Redding, CA 96001	211.06
KPMC AM - Dan B. Speare Enterprises 337 E. 21st St., Bin 1736 Bakersfield, CA 93302	249.90

J.A. 277

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KERN Box 2700, 5600 Planz Rd. Bakersfield, CA 93309	275.40
KAFY - Sunset Broadcast Box 6128 Bakersfield, CA 93306	432.07
KNTB AM - Reliable Broadcasting 924 Truxton Bakersfield, CA 93301	224.40
KLYD FM - Reliable Broadcasting 924 Truxton Bakerfield, CA 93301	285.60
KGAM AM/FM Klee, Inc. 207 Truxton Avenue Bakersfield, CA 93302	326.40
KTRB Box 3839 Modesto, CA 95352	491.30
KFIV AM/FM 2437 E. Orangeburg Ave. Modesto, CA 95350	786.25
KCEY/KMIX 4043 Geer Rd. Modesto, CA 95354	563.55
KMJ McClatchy Broadcasting Co. 3636 North First St., #106 Fresno, CA 93726	571.20
KMAK McCarthy Broadcasting Co., Inc. 2020 East McKinley Avenue Fresno, CA 93703	470.48

J.A. 278

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KKNU FM E.W. - FM Group, Inc. 1031 East Belmont Ave. Fresno, CA 93701	714.00
KYNO Radio KYNO Inc. 2125 North Barton Fresno, CA 93703	938.40
KFRN AM 732 N. Van Ness Avenue Fresno, CA 93728	498.95
KIOY 12592 S. Cedar Ave. Fresno, CA 93725	532.95
KFYE Stereo Broadcasting Corp Fresno Town House, #535 Fresno, CA 93721	632.40
KDB A & F Pacific Broadcasting Co. 23 West Micheltorene Street Santa Barbara, CA 93101	612.00
KIST Radio Santa Barbara Inc. 735 State Street Santa Barbara, CA 93101	326.40
KTMS A & F Santa Barbara News Newspress Building Drawer NN Santa Barbara, CA 93102	231.20
KJOI FM 2555 Briarcrest Rd. Beverly Hills, CA 90210	673.20
KWG 1325 Center St. Stockton, CA 95202	223.55

J.A. 279

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KFBK - McClatchy Broadcasting Box 15779, 21st and Q St. Sacramento, CA 95813	413.10
KXOA FM - KXOA, Inc. Box 1677, 1017 Front St. Sacramento, CA 95808	459.00
KGMS/KSFM - Kula Broadcasting 937 Enterprise Dr. Sacramento, CA 95825	877.63
KRAK - Affiliated Broadcasting Box 60408 Sacramento, CA 95860	2,542.35
KAER FM - McClatchy Broadcasting 21st and Q Streets Sacramento, CA 95813	122.40
KPSI AM Radio Corp. 174 North Palm Canyon Dr. Palm Springs, CA 92262	144.02
KPSI FM Radio Corp 174 North Palm Canyon Drive Palm Springs, CA 92262	81.87
KCMS FM Calssic Broadcasting Inc. 81909 Indio Blvd., Box 1856 Indio, CA 92201	187.85
KSUN 74290 Hwy. 111 Palm Desert, CA 92260	163.20
KMXY Glen Barnett 68700 Avenue 34 Palm Springs, CA 92262	164.69

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KCHV 84115 Indio Blvd. Indio, CA 92201	211.23
KCMJ Westminster Broadcasting 300 Radio Road, Box 1626 Palm Springs, CA 92262	122.40
KDES AM & FM Tourtelot Broadcasting Co. 321 North Palm Canyon Drive Palm Springs, CA 92262	192.78
KNAV FM A-B Chemical Corp 46 Garden Court Monterey, CA 93940	285.60
KTOM/KNYT FM MOnterey Peninsula Communications 933 North Main Salinas, CA 93901	775.20
KIDD Walton Radio 2550 Garden Road Monterey, CA 93940	246.50
KDON Forrest Cal Central Corp Box 1460 Salinas, CA 93901	530.40
KAAP A/F Box 1400, Saticoy Dr. Ventura, CA 93003	229.84
KBBQ Box 5151 Ventura, CA 93003	287.30

J.A. 284

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KACY AM 3434 Dodge Rd. Oxnard, CA 93030	275.40
KHAY 3897 Market Street Ventura, CA 93003	148.50
KVEN 3897 Market Street Ventura, CA 93003	255.43
KCHEN/KGGI Box 1290, 2255 E. Bessant St. San Bernardino, CA 92402	367.20
KFXM/KDUD FM Holiday Inn, Suite 590 666 Fairway Dr. San Bernardino, CA 92408	817.70
KBON FM/KDIG AM 992 Inland Center Dr. San Bernardino, CA 92408	734.40
KPRO AM 3701 Merrill, Box 1440 Riverside, CA 92502	247.86
KATY Riverside Broadcasting Co. 1146 Monterey Street, Box 841 San Luis Obispo, CA 93401	153.00
KKAL AM Kal Koast Radio Corp. Box 220, 129 N. Halycon Arroyo Grande, CA 93420	204.00
KSLY AM KUNA FM San Luis Obispo Broadcasting Inc. 2895 So. Higuera Street, Box 1400 San Luis Obispo, CA 93401	272.00

J.A. 282

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KVEC Box 787, 820 Walnut St. San Luis Obispo, CA 93401	170.34
KBAY FM/KEEN - United Broadcasting 1245 S. Winchester Blvd. San Jose, CA 95128	993.65
KEEN 1245 S. Winchester Blvd. San Jose, CA 95128	616.25
KLOK -Radio KLIK Inc. Box 21246 San Jose, CA 95151	1,122.00
KABL A/F- Shamrock Broadcasting 632 Commercial Street San Francisco, CA 94111	1,040.40
KFOG FM - General Electric Broadcasting 900 N. Point San Francisco, CA 94109	629.00
KFRC AM RKO General Inc. 415 Bush Street San Francisco, CA 94108	3,905.75
KIBE/KDFC 900 N. Point St. San Francisco, CA 94109	637.50
K101 FM Pacific FM Inc. 700 Montgomery Street San Francisco, CA 94111	1,147.00
KKHI A/F - Buckley Broadcasting St. Francis Hotel, Union Square San Francisco, CA 94119	850.00

J.A. 283

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KNBR - NBC Inc. 1700 Montgomery Street San Francisco, CA 94111	2,315.40
KNEW - Metromedia Radio 66 Jack London Square Oakland, CA 94607	905.25
KOIT FM - Bonneville Int'l Corp. 600 Montgomety Street San Francisco, CA 94111	688.50
KSFO Golden West Broadcasting 950 California Street San Francisco, CA 94108	654.50
KFSD FM - Lotus Comm. Inc. 1540 6th Avenue San Diego, CA 92101	743.75
KSON - Broadmoor Broadcasting Corp. College Grove Center, Hwy 94 at College Ave. San Diego, CA 92115	938.40
KOGO - SBI Box 545 San Diego, CA 92112	506.60
KYXY 8033 N. Linda Vista Rd. San Diego, CA 92111	904.40
XTRA - Noble Multimedia Comm. 1250 Sixth Avenue San Diego, CA 92101	1,020.00

J.A. 284

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KSDO/KEZL 3180 University Ave. San Diego, CA 92104	1,687.25
KUDE/KJFM Dolph-Pettey Broadcasting Co. Box K 1320, 2950 Oceanside Blvd. Oceanside, CA 92054	636.48
KVLO Box 1000, 1591B E. Vista Way Vista, CA 92083	285.60
KOWN Box 398, 1523 E. Valley Pkwy. Escondido, CA 92025	346.80
KMJ McClatchy Broadcasting Co. 3636 North First St., #106 Fresno, CA 93726	571.20
KOAK McCarthy Broadcasting Co., Inc. 2020 East McKinley Avenue Fresno, CA 93703	470.48
KKNU FM E.W. - FM Group, Inc. 1031 East Belmont Avenue Fresno, CA 93701	714.00
KYNO Radio KYNO Inc. 2125 North Barton Fresno, CA 93703	938.40
KARM AM 732 N. Van Ness Avenue Fresno, CA 93728	496.95
KIOY 12592 S. Cedar Ave. Fresno, CA 93725	532.95

J.A. 285

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KPSI Radio Corp. 174 North Palm Canyon Drive Palm Springs, CA 92262	144.02
KPSI Radio Corp. 174 North Palm Canyon Drive Palm Springs, CA 92262	81.87
KCMS FM Classic Btoadcasting Inc. 81909 Indio Blvd. Box 1856 Indio, CA 92210	187.85
KSUY 74290 Hwy.111 Palm Desert, CA 92260	163.20
KMNY Glen Barnett 68700 Avenue 34 Palm Springs, CA 92262	164.69
KCHV 84115 Indio Blvd. Indio, CA 92201	211.23
KCMJ Westminster Broadcasting 300 Radio Road, Box 1626 Palm Springs, CA 92262	122.40
KDES AM & FM Tourtelot Broadcasting Co. 321 North Palm Canyon Drive Palm Springs, CA 92262	192.78
KAAP A/F Box 1400, Saticoy Dr. Ventura, CA 93003	229.84
KBBQ Box 5151 Ventura, CA 93003	287.30

J.A. 286

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KACY FM 3434 Dodge Rd. Oxnard, CA 93030	275.40
KRAY 2897 Market Street Ventura, CA 93003	127.25
KVEN 3897 Market Street Ventura, CA 93003	255.43
KNAV FM A-B Chemical Corp. 46 Garden Court Monterey, CA 93940	285.60
KTOM/KMYT FM Monterey Peninsula Communications 933 North Main Salinas, CA 93901	775.20
KIDD Walton Radio 2550 Garden Road Monterey, CA 93940	246.50
KDON A/F Forrest Cal Central Corp. Box 1460 Salinas, CA 93901	530.40
KATA AM - Quail Communications Drawer Eye, So. G. Street Arcata, Ca 95521	169.58
KEKA - Eureka Broadcasting Box 1386, 530 E. Street Eureka, CA 95501	137.70
KINS - Eureka Broadcasting Box O, 1101 Marsh Rd. Eureka, CA 95501	153.68

J.A. 287

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KXGO FM - Winters Broadcasting Co. Drawer QQ, 773 8th St. Arcata, CA 95521	153.00
KFMI (FM) C & N Broadcasting, Inc. Box 3718, 327 Second St. Eureka, CA 95501	195.50
KDBA A/F Pacific Broadcasting Co. 23 West Micheltorena Street Santa Barbara, CA 93101	612.00
KIST Radio Santa Barbara Inc. 735 State Street Santa Barbara, CA 93101	326.40
KTMS A & F Santa Barbara News Newspress Building Drawer NN Santa Barbara, CA 93102	231.20
KCLM Box KCLM, 2235 Cliff Dr. Redding, CA 96001	197.20
KQMS - Barker Broadcasting Box 1400, 3360 Alta Mesa Redding, CA 96001	157.08
KRDG - Redding Broadcasting Box 1917, 1735 Market ST. Redding, California 96001	199.24
KSXO - Norcal Broadcasting Box 1918 Redding, CA 96001	211.06
KHSL - Golden Empire Broadcasting Box 489 Chico, Ca 95926	153.99

J.A. 288

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KJOI KJAX Joseph Gamble Stations, Inc. 110 N. El Dorado St. Stockton, CA 95202	673.20
KWG 1325 Center St. Stockton, CA 95202	223.55
KFBK - McClatchy Broadcasting Box 15779, 21st and Q St. Sacramento, CA 95813	413.10
KXOA FM - KXOA, Inc. Box, 1677, 1017 Front St. Sacramento, CA 95808	459.00
KGMS/KSMF - Kula Broadcasting 937 Enterprise Dr. Sacramento, CA 95825	877.63
KRAK - Affiliated Broadcasting Box 60408 Sacramento, CA 95860	1,466.25
KAER FM - McClatchy Broadcasting 21st and Q Streets Sacramento, CA 95813	122.40
KPMC AM - Dan B. Speare Enterprises 307 E. 21st Street, Bin 1736 Bakersfield, CA 93302	249.90
KERN Box 2700, 5600 Planz Rd. Bakersfield, CA 93309	275.40
KAFY - Sunset Broadcast Box 6128 Bakersfield, CA 93306	432.07

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KLYD- FM Reliable Broadcasting 924 Truxton Bakersfield, CA 93301	285.60
KGAM / KGFM Klee, Inc. 207 Truxton Avenue Bakersfield, CA 93302	326.40
KTRB Box 3839 Modesto, CA 95352	491.30
KFIV A/F 2437 E. Orangeburg Ave. Modesto, CA 95350	786.25
KCEY/KMIX 4043 Geer Rd. Modesto, CA 95354	563.55
KMPC - Golden West Broadcasters 5858 Sunset Blvd. Los Angeles, CA 90028	13.77
KACE FM 1710 E. 111th ST. Los Angeles, CA 90059	632.40
KDAY Rollins Broadcast of Del. 1700 N. Alvarado Los Angeles, CA 90026	2,231.25
KFAC A/F ASI Communications Inc. 5773 Wilshire Blvd. Los Angeles, CA 90036	2,856.00

J.A. 290

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KGIL A/F Buckley Broadcasting Corp. 14800 Lassen St. San Fernando, CA 91345	897.60
KHJ AM KHJ Radio 5515 Melrose Avenue Hollywood, CA 90036	1,785.00
KGFJ/KUTE Inner City Broadcasting 5900 Wilshire Blvd. Los Angeles, CA 90036	1,275.00
KIQQ FM The Outlaw Co. 6430 Sunset Blvd. Hollywood, CA 90028	1,300.50
KJOI FM 2555 Briarcrest Rd. Beverly Hills, CA 90210	1,560.60
KKGO Mt. Wilson Broadcasters 10880 Wilshire Blvd. Los Angeles, CA 90024	918.00
KLAC - Metromedia Radio 5746 Sunset Blvd. Los Angeles, CA 90028	2,839.00
KRLA AM KRLA Inc. 1401 S. Oak Knoll Pasadena, CA 91109	1,428.00
KWVE FM ELCamino Broadcasting 800 El Camino Real San Clemente, CA 92672	321.30
KZLA A/P Capital Cities Broadcasting 5700 Sunset Blvd. Los Angeles, CA 90028	1,406.75

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KACY AM/FM 3434 Dodge Rd. Oxnard, CA 93030	550.80
KHRM 8921 Complex St. Kerny Mesa, CA 92123	612.00
KYPX FM Golden Gate Radio, Inc. 655 Sutter Street San Francisco, CA 94102	709.75
KEZT Box 1629 San Diego, CA 92112	897.60
KCBQ Inc. Box 1629 San Diego, CA 92112	1,020.00
KFYE Stereo Broadcasting Corp. Fresno Town House, #535 Fresno, CA 93721	632.40
KACY AM 3434 Dodge Rd. Oxnard, CA 93030	275.40
KRED - Pauldon, Inc. 5640 S. Broadway Eureca, CA 95501	158.58
KPMF Box 266 Chico, CA 95927	188.70
KNTB AM - Reliable Broadcasting 924 Truxton Bakersfield, CA 93301	224.40

J.A. 292

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KFWB Westinghouse Broadcasting Corp. 6230 Yucca St. Los Angeles, CA 90028	1,559.75
KSIG - FM Bonneville Corp. 7755 Sunset Blvd. Los Angeles, CA 90046	1,581.00
KRCR TV - Sacramento Valley TV 2770 Pioneer Drive Redding, CA 96001	2,125.00
KGMR TV - Gillett Broadcasting Co. 2831 Eye Street Bakersfield, CA 93301	310.25
KBAK TV Harriscope Broadcasting Corp 2210 Chester Avenue Bakersfield, CA 93301	1,258.00
KIEM TV - California Oregon Radio Co. 5650 So. Broadway Eureka, CA 95501	269.85
KVIQ TV - California NW Broadcasting Co. 1800 Broadway Eureka, CA 95501	374.00
KMJ TV - McClatchy Broadcasting 1544 Van Ness Avenue Fresno, CA 93779	1,364.25
KMPH TV - Pappas Telecasting Inc. 2600 So. Mooney Blvd. Visalia, CA 93277	284.75
KFSN TV - Capital Cities Comm. 1777 G. Street Fresno, CA 93706	1,415.25

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
5732 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KCRA TV - Kelly Broadcasting Co. 310 - 10th Street Sacramento, CA 95814	3,881.50
KOVR TV McClatchy Broadcasting Co. 225 East Miner Avenue, Box 2128 Stockton, CA 95201	3,000.50
KTXL TV - Camelia City Broadcasters, Inc. 4655 Fruitridge Rd. Sacramento, Ca 95820	884.00
KVIE TV - Great Western Broadcasting Corp. 400 Broadway Sacramento, CA 95818	4,165.00
KBHK TV Field Communications 420 Taylor Street San Francisco, CA 94102	8,925.00
Gill Cable 1304 North 4th Street San Jose, CA 95112	828.75
KNXT (TV) 6121 Sunset Blvd. Los Angeles, CA 90028	7,055.00
KTTV Metromedia TV 5746 Sunset Blvd. Los Angeles, CA 90028	10,625.00
KTLA TV - Golden West Broadcasters 5800 Sunset Blvd. Los Angeles, CA 90028	15,640.00
KHJ TV - RKO General Inc. 5515 Melrose Avenue Hollywood, CA 90038	12,325.00

CALIFORNIANS AGAINST REGULATORY EXCESS
I. D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Western International Media
8722 Sunset Blvd.
Los Angeles, CA 90069

Payees $100 and over:

KCOP 915 N. La Brea Avenue Hollywood, CA 90038	6,035.00
KNTV 645 Park Avenue San Jose, CA 95110	2,890.00
KTYT 2225 Coburg Rd. Eugene, OR 94701	692.75
KSBY TV Hill and Mountain View San Luis Obispo, CA 93401	1,827.50
KCOY TV - Central Coast Broadcaster 1503 North McClelland Santa Maria, CA 93454	450.50
KTXL TV - Camelia City Broadcasters, Inc. 4655 Fruitridge Rd. Sacramento, CA 95820	884.00

CALIFORNIANS AGAINST REGULATORY EXCESS
I.D. No. 801908

FORM 420 - SCHEDULE E
Attachment

Period: 9/24/80 through 10/20/80

Cobbs & Nielsen
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, CA 94111

Payees $100 and over:

U.S. Messenger 514 Bryant St. San Francisco, CA 94107	1,350.55
Premier Travel 360 Pine St. San Francisco, CA 94104	478.00
Franchise Tax Board Aerojet Center Sacramento, CA 95857	230.00

U.A. 295

SCHEDULE G
MISCELLANEOUS ADJUSTMENTS TO CASH POSITION
FORM 420, 430 OR 490

(Amounts May Be Rounded To Whole Dollars)

STATEMENT COVERS PERIOD FROM	THROUGH
9/24/80	10/20/80

NAME OF CANDIDATE OR COMMITTEE: CALIFORNIANS AGAINST REGULATORY EXCESS

I.D. NUMBER (IF COMMITTEE): 801908

DATE	DESCRIPTION OF ADJUSTMENT	AMOUNT OF INCREASE TO CASH	AMOUNT OF DECREASE TO CASH
10/7	Security Pacific National Bank - interest on savings account	621.69	
10/10	Sheila Malone - net payroll check dated 9/30/80 voided	381.71	
10/17	State of California - refund of prepayment of minimum franchise tax (200.00) plus interest (6.20)	206.20	
10/18	Burlingame Hyatt - refund of unused deposit for meeting expense	100.96	
		(a)	(b)
☐	If more space is needed, check box at left and attach additional Schedules G — SUBTOTAL	1,310.56	-0-

SUMMARY

1. INCREASES TO CASH OF $100 OR MORE (Include all subtotals (a))	$ 1,310.56	
2. INCREASES TO CASH OF LESS THAN $100 (Not Itemized)	57.16	
3. TOTAL INCREASES TO CASH (Line 1 + Line 2)		1,367.72
4. DECREASES TO CASH OF $100 OR MORE (Include all subtotals (b))	-0-	
5. DECREASES TO CASH OF LESS THAN $100 (Not Itemized)	.10	
6. TOTAL DECREASES TO CASH (Line 4 + Line 5)		.10
7. TOTAL MISCELLANEOUS ADJUSTMENTS TO CASH (Line 3 - Line 6) Enter here and on Line 12 of Summary Page		$ 1,367.62 (May be negative figure)

ANALYSIS OF FUNDING OF CAMPAIGN TO DEFEAT "CLEAN INDOOR AIR ACT OF 1978" - PROPOSITION 5

The following analysis of the campaign receipts and spending disclosure statements of Californians for Common Sense (hereinafter "CCS"), the single campaign organization formed to defeat Proposition 5, and of the Tobacco Institute (hereinafter "Institute"), which, although not a campaign organization as such, made significant expenditures to defeat Proposition 5 prior to the formation of CCS, will demonstrate that 99.7% of the funds contributed to defeat Proposition 5 came from the tobacco industry.

Total Monetary Contributions Received by CCS — $6,003,924

This figure is obtained by adding the cumulative monetary contributions received shown on the Summary Page (line 1, column C) of the CCS statement for the reporting period ending on 12/31/78 (Exhibit 5) to the monetary contributions received as shown on the Summary Page (line 1, column C) of the CCS statement for the reporting period ending on 6/30/79 (Exhibit 6), the last period in which CCS reported receiving contributions. ($4,606,124 + $1,397,800 = $6,003,924). It is necessary to combine these two figures, because under the campaign reporting laws, the cumulation of cash contributions ends with the first post-election statement even though future contributions may be attributable to the election. In this case, note that most of the cash contributions reported on the statement of 6/30/79 ($1,365,300) actually represented the forgiveness of loans made prior to the election.

Miscellaneous receipts reported on line 3 of the Summary Pages are not included in this analysis because they represent refunds of expenditures and not contributions.

Total Monetary Contributions by Five Major Tobacco Companies	$5,897,656

This total is obtained by adding up the following individual totals:

1. Brown and Williamson Tobacco Co.

Cumulative total, p.3 of Contributions Schedule of statement for period ending 10/23/78 (Exhibit 4) –	$ 870,000
Cumulative total, p.4 of statement for period ending 6/30/79 (Exhibit 6) –	300,000
	$1,170,000

2. Liggett Group Inc. (AKA Liggett and Myers Tobacco Co.)

Cumulative total, p.26 of Contributions Schedule of statement for period ending 9/23/78 (Exhibit 3) –	$ 13,025
Contribution reported on p.6 of Contributions Schedule of statement for period ending 12/31/78 (Exhibit 5) – (note cumulative figure on that page is in error)	15,000
	$ 28,025

3. Lorillard - A Division of Loews Theaters, Inc.

Cumulative total, p.15 of Contributions Schedule of statement for period ending 10/23/78 (Exhibit 4) –	$ 584,545
Cumulative total, p.4 of statement for period ending 6/30/79 (Exhibit 6) –	3,300
	$ 587,845

4. Philip Morris, Inc.

Cumulative total, p.21 of Contributions Schedule of statement for period ending 10/23/78 (Exhibit 4) –	$1,380,000
Cumulative total, p.4 of statement for period ending 6/30/79 (Exhibit 6) –	380,000
	$1,760,000

Analysis of Funding of Campaign to Defeat
"Clean Indoor Air Act of 1978" - Proposition 5
(continued)

5. R. J. Reynolds Tobacco Co.

Cumulative total, p.22 of Contributions Schedule of statement for period ending 10/23/78 (Exhibit 4) -	$1,669,786
Cumulative total, p.4 of statement for period ending 6/30/79 (Exhibit 6) -	682,000
	$2,351,786

Percentage of Monetary Contributions by Five Major Companies 98.2%

Other Monetary Contributions by Tobacco Interests $ 84,015

This figure is obtained by adding up all contributions to CCS by companies other than the Five Major Tobacco Companies, which either are subsidiaries of one of those five companies or are primarily in the tobacco business. The figure does not include contributions by individuals employed in the tobacco industry. See Delcaration of Deborah Fong (Exhibit C-2) as to identification of companies as being in the tobacco business, where not self-evident from name of company.

1. Contributions Schedule of statement for period ending 6/30/78 (Exhibit 2)

p.7 Bercovich Cigar Company	$ 500
p.13 Buehler Distributing Company	500
p.14 Capital Cigar Company	500
p.18 Consolidated Cigar Corporation	1,000
p.21 Harry Cutting, Tobacco Wholesaler	250
p.34 General Cigar & Tobacco Company	1,000
p.53 L. B. Ball & Company	6,000
p.66 Melvin Sosnick Company	1,000
p.68 Modesto Tobacco & Candy Company	2,000
p.71 Nat Cicco, Inc. dba National Cigar Company	250
p.73 North Coast Distributors	250
p.78 Phillips & King Cigar Company	500
p.86 Rowe Automatic Vendors	500
p.86 Royal Wholesale Cigar Company	2,900

p.91	Shiffert's Wholesale, Inc.	$ 250
p.110	William Barron Candy Company	500
		$ 17,900

2. Contributions Schedule of statement for period ending 9/23/78 (Exhibit 3)

p.6	Briar'n Leaf Pipe Shop	$ 25
p.15	Glaser Bros.	10,000
p.31	Morgan Cigarette Service	50
p.33	Oakland Cigarette Service, Inc.	100
p.38	Royal Wholesale Cigar Company	4,400
p.40	Shiffert's Wholesale, Inc.	250
p.43	The Cigar Warehouse	25
	Tinder Box Pipe Shop	10
p.44	Tobacco Exporters International	5,000
p.47	Hans Wittner, Tobacconist	25
		$ 19,885

3. Contributions Schedule of Statement for period ending 10/23/78 (Exhibit 4)

p.1	ABC Cigar Company	$ 25
	Advance Automatic Sales Company	50
p.7	F. W. Strickler & Son	500
p.21	Pipe Pourri, Ltd.	30
p.23	Royal Wholesale Cigar Company	1,400
p.25	Shiffert's Wholesale, Inc.	300
p.30	Hans Wittner, Tobacconist	25
		$ 2,330

4. Contributions Schedule of statement for period ending 12/31/78 (Exhibit 5)

p.3	Del Monte Corp. (wholly owned subsidiary of R. J. Reynolds Tobacco Company)	$ 1,000
p.6	L. B. Ball & Company	9,000
p.8	Royal Wholesale Cigar Company	1,300

p.10 Wittners (same as Hans Wittner, Tobacconist)	$ 100
	$ 11,400
5. p.4 of statement for period ending 6/30/79 (Exhibit 6) Glaser Brothers	$. 32,500
Total Monetary Contributions by Tobacco Industry	$5,981,671
Percentage of Monetary Contributions by Tobacco Industry	99.6%
Total Non-monetary Contributions Received by CCS	$ 348,154

This figure is obtained from the Summary Page (line 5, column C) of the CCS statement for the period ending 12/31/78 (Exhibit 5)

Non-monetary Contributions made by Tobacco Institute prior to formation of CCS	$ 60,963

This figure is obtained by subtracting the $705 shown on Schedule C of the CCS statement for the period ending 3/10/78 (Exhibit 1) as having been received from the Institute from the $61,668 of expenditures shown on the Institute's Expenditure and Major Donor Statement for that period. Although this $60,963 did not have to be reported by CCS inasmuch as it was spent before CCS was formed, it nevertheless constitutes a non-monetary contribution to defeat Proposition 5. (See Exhibit 1)

Total Non-monetary Contributions	$ 409,117

Non-monetary Contributions by Tobacco Industry	$ 408,936

This figure is obtained by adding up the following individual totals:

1. Cumulative totals, Schedule C of CCS statement for period ending 12/31/78 (Exhibit 5)

a. Brown and Williamson	$ 12,143
b. Liggett and Myers	13,448
c. Lorillard	53,394
d. Philip Morris, Inc.	137,308

Note that the $132,308 figure in the statement is a typographical error, as the previous cumulative amount (Schedule C of statement for period ending 10/23/78 (Exhibit 4)) shows $84,561, which added to $52,747 totals $137,308.

e. R. J. Reynolds Tobacco Co.	51,946
f. Tobacco Institute	79,708

2. L. B. Ball & Company
Schedule C of CCS statement for period ending 10/23/78 (Exhibit 4) $ 26

3. Tobacco Institute Contributions Prior to Formation of CCS $ 60,963

Percentage of Non-monetary Contributions by Tobacco Industry	99.95%
Total Contributions — Monetary and Non-monetary	$6,413,041

Analysis of Funding of Campaign to Defeat "Clean Indoor Air Act of 1978" — Proposition 5 (continued)

Total Contributions by Tobacco Industry	$6,390,607
Percentage of Total Contributions by Tobacco Industry	99.7%
Total Contributions by others	$ 22,434
Percentage of Total Contributions by others	0.3%

EXHIBIT 5
275648

RECIPIENT COMMITTEE

CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

EXHIBIT 1

For use by recipient committees which receive a cumulative contribution of $50 or more from a single source.

(Type or Print in Ink)

FILED

OFFICIAL USE ONLY

I.D. NUMBER

Statement covers period from Inception through 3/10/78.

COMMITTEE:
FORNIANS FOR COMMON SENSE

ADDRESS OF COMMITTEE: NO. AND STREET: tery Street, Suite 404 | CITY: San Francisco, CA | STATE | ZIP CODE: 94111 | AREA CODE: (415) | PHONE NO.: 433-1246

TREASURER:
rt J. Rand

CURRENT ADDRESS OF TREASURER: NO. AND STREET: as above | CITY | STATE | ZIP CODE | AREA CODE | PHONE NO.

IF ELECTION (CIRCLE ONE IF APPLICABLE): Primary (General) Special Recall	CIRCLE IF APPLICABLE: semi-annual campaign statement	DATE OF ELECTION (Mo. Day Yr.): 11/7/78	TOTAL PAGES: 14

SCHEDULE OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES (Total expenditures from Schedules E & F by candidates, officeholders and measures; amounts rounded off to whole dollars.) 35 days post qualification.

OFFICIAL ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE: support	CHECK ONE: oppose	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Clean Indoor Air Act		X	164,542	164,542

Attach additional information on appropriately labeled continuation sheets

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and that I have used all reasonable diligence in their preparation.

Executed on 3/17/78 (DATE) at San Francisco, CA (CITY AND STATE) by [signature] (SIGNATURE OF TREASURER)

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement and its schedules.

Executed on N/A (DATE) at N/A (CITY AND STATE) by N/A (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

Information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provisions Political Reform Act," Section XI.

J.A. 304

COMMITTEE CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

C 93929

For use by: (1) persons who have made expenditures or contributions totaling $1,000 or more in a calendar year directly to or at the behest of a candidate, officeholder or committee; or, (2) persons who have made independent expenditures on behalf of a candidate, officeholder or ballot measure in the amount of $500 or more.

FOR OFFICIAL USE ONLY

(Type or Print in Ink)

Statement covers period Inception* through 3/10/78

REGISTRAR OF VOTERS

BY DEPUTY

CCO INSTITUTE

ADDRESS: NO. AND STREET	CITY	STATE	ZIP CODE	AREA CODE PHONE
Street, N. W.	Washington, D. C.		20006	(202) 457-4800

ISURER:
Nielsen, Jr.

ADDRESS OF TREASURER: NO. AND STREET	CITY	STATE	ZIP CODE	AREA CODE PHONE
2500, One Maritime Plaza	San Francisco, CA		94111	(415) 362-1940

ELECTION (Circle one if applicable):	CIRCLE IF APPLICABLE:	DATE OF ELECTION (MO. DAY YR.):	TOTAL PAC
ry (General) Special Recall	semi-annual termination statement	11/7/78	2

s post qualification

DITURES AND CONTRIBUTIONS MADE TO: (Amounts may be rounded off to whole dollars)

FULL NAME AND ADDRESS*	DESCRIPTION OF EXPENDITURE OR CONTRIBUTION MADE	NAME OF CANDIDATE & OFFICE OR NAME OF BALLOT MEASURE & BALLOT NUMBER OR LETTER (Check One)	Sup-port	Opp-ose	AMOUNT THIS PERIOD	CUMULATIVE AMOUNT
Woodward & McDowell 22 Battery Street, Suite 404 San Francisco, CA 94111	Fees	Clean Indoor Air Act		X	27,000	27,000
"	Reimbursement for expenses	"		X	4,026	4,026
Dobbs & Nielsen One Maritime Plaza, St. 2500 San Francisco, CA 94111	Research by: Economic Research Assoc., 680 Beach St., S.F., CA 94109	"		X	24,400	24,400
Dobbs & Nielsen One Maritime Plaza, Ste. 2500 San Francisco, CA 94111	Legal fees	"		X	4,897	4,897
"	Costs	"		X	640	640
John D. Kelly The Tobacco Institute 1776 K Street, N.W. Washington, D.C. 20006	Reimbursement for travel expenses (meals, lodging, airfare, etc.)	"		X	705	705

...ial information on supplementary labeled continuation sheets.

...ber, 1977 SUBTOTAL (Carry with any additional subtotals to Line 1, Part IV) $ 61,668

...xpenditure was made to a committee, list the committee's name, address and I.D. Number (or the full name and street address of the treasurer).

YOU MUST COMPLETE THE SUMMARY AND VERIFICATION ON PAGE 2

...L USE ...Y | C | D | E J.A. 305 | F

SCHEDULE C, FORM [illegible]
NON-MONETARY CONTRIBUTIONS RECEIVED

(Amounts may be rounded off to whole dollars)

(...ation manual for directions and examples

FULL NAME AND ADDRESS AND I.D. NUMBER, if Committee)	OCCUPATION	EMPLOYER (If Self-Employed, List Address)	DESCRIPTION OF GOODS OR SERVICES	FAIR MARKET VALUE RECEIVED	CUM. A
Liggett & Myers, Inc. 4100 Roxboro Road Durham, North Carolina 27704	N/A	N/A	Salaries & Travel Expenses (airfare, meals lodging, etc.)	$ 3,88[illegible]	$ 3
Phillip Morris, Inc. 100 Park Avenue New York, New York 10017	"	"	"	8,843	8
Lorillard, a Division of Loews 200 East 42nd Street New York, New York 10017	"	"	"	5,904	5
Brown & Williamson 1600 West Hill Street Louisville, Kentucky 40201	"	"	Travel expenses (meals, airfare lodging, etc.)	1,111	
R. J. Reynolds Industries, Inc. Winston-Salem, North Carolina 27102	"	"	Salaries & Travel Expenses (airfare, meals lodging, etc.)	2,654	2
The Tobacco Institute 1776 K Street, N.W. Washington, D.C. 20006	"	"	Travel Expenses (airfare, meals lodging, etc.)	705	

If additional information on appropriately labeled continuation sheet.

SUBTOTAL $ 23,101

SUMMARY

J.A. 306

[illegible] MONETARY CONTRIBUTIONS OF $50 OR MORE THIS PERIOD ..... $ -

[illegible] MONETARY CONTRIBUTIONS UNDER $50 THIS PERIOD (Not Itemized) .....

[illegible] ..... [illegible] ..... [illegible]

CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

EXHIBIT 2

For use by recipient committees which receive a cumulative contribution of $50 or more from a single source.

(Type or Print in Ink)

103795

FILED

OFFICIAL USE ONLY

AUG 1 1978

S.F. ELECTION

Statement covers period from 03/11/78 through 06/30/78

I.D. NUMBER 771595

NAME: mians For Common Sense

COMMITTEE: NO. AND STREET CITY STATE ZIP CODE AREA CODE PHONE NO.
tery Street, Suite 404, San Francisco, CA 94111 (415) 392-2327

DEPUTY

NAME: J. Rand, C.P.A.

ADDRESS OF TREASURER: NO. AND STREET CITY STATE ZIP CODE AREA CODE PHONE NO.
tery Street, Suite 412, San Francisco, CA 94111 (415) 433-1246

TYPE OF STATEMENT (CIRCLE ONE IF APPLICABLE):	CIRCLE IF APPLICABLE:	DATE OF ELECTION (Mo. Day Yr.):	TOTAL PAGES
(General) Special Recall	(semi-annual campaign statement)	11/07/78	172

EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES
(s from Schedules E & F by candidates, officeholders and measures; amounts o whole dollars.)

NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE: support	CHECK ONE: oppose	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
Clean Indoor Air Act - Proposition 5		XX	381,467.63	546,019.30

Attach additional information on appropriately labeled continuation sheets

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and that I have used all reasonable diligence in their preparation.

Executed on 07/28/78 (DATE) at San Francisco, CA (CITY AND STATE) by Robert J. Rand (SIGNATURE OF TREASURER)

A candidate or officeholder who controls a committee must also verify the campaign statement.
I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement and its schedules.

Executed on N/A (DATE) at N/A (CITY AND STATE) by N/A (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

J.A. 307

required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provisions of ...ure Act," Section XI.

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/28/78	Bercovich Cigar Company 601 - 50th Avenue Oakland, CA 94601	N/A	500.00	500.00
06/21/78	Dorothy Berg 1621 Carmel Circle West Upland, CA 91786	Homemaker	5.00	5.00
06/21/78	June Berridgi 731 S. Highway 101, Ste. 1-F Solana Beach, CA 92075	Mon Ami Restaurant	25.00	25.00
06/13/78	Lucien Berthier 39 Los Palmos San Francisco, CA 94127	Retired	1.00	1.00
06/01/78	Ray John Billingham 5 9 Continental Court Pasadena, CA 91103	Insurance Salesman	5.00	5.00
03/24/78	Edward J. Billon 6638 Verde Ridge Road Rancho Palos Verdes, CA 90274	Executive	100.00	100.00
06/27/78	Steve Bishop 14740 Mosegard Lane Morgan Hill, CA 95037	Manager California Avenue Pharmacy	5.00	5.00
06/16/78	Alice Jo Black 502 Factory Street Nevada City, CA 95959	Not required	5.00	5.00
		SUBTOTAL	646.00	

TE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/30/78	Buehler Distributing Company 3239 Franklin Avenue Riverside, CA 92507	N/A	500.00	500.00
06/20/78	Marjorie F. Bullinger 13575 Orchard Gate Road Poway, CA 92064	Housewife	10.00	10.00
06/16/78	Ronald N. Burdick 10720 Escobar Dr. San Diego, CA 92124	Equipment Specialist U.S. Civil Service SZACAS	2.00	2.00
06/22/78	William E. Burgess 2650 East 19th Street Apartment #1 Long Beach, CA 90804	Store Manager Safeway, #129-G	10.00	10.00
06/05/78	Margaret Butler 540 Bonita Avenue, Space 201 San Jose, CA 95116	Collating - Q.C. Goodwill Industries	5.00	5.00
06/09/78	June L. Butterfield 201 N. 34th Street San Jose, CA 95116	Nursing San Jose Hospital	5.00	5.00
06/01/78	Mrs. Carl S. Calabrese 12361 Loretta Drive Orange, CA 92669	Housewife	5.00	5.00
06/13/78	James G. Calderon 1242 Cary Avenue Wilmington, CA 90744	Salesman South Bay	1.00	1.00
		SUBTOTAL	538.00	

FPPC CONTRIBUTIONS SCHEDULE Californians for Common Sense 03/11/78 TO 06/30/78 PAGE 14

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/13/78	Rose Lee Canady 636 - 42nd Street Richmond, CA 94805	Housewife	2.00	2.00
06/26/78	Jo R. Capehart P.O. Box 75127 Los Angeles, CA 90075	Ex-Director Sweet Holmes Research Foundation	5.00	5.00
06/28/78	Capital Cigar Company 1021 Fee Drive Sacramento, CA 95815	N/A	500.00	500.00
6/16/78	Wanda Carbaugh 2525 Fairgrounds # 28 Vallejo, CA 94590	Clerk Typist Napa State Hospital	5.00	5.00
06/21/78	T. H. Carignan 274 Parrott St., # 7 San Leandro, CA 94577	Secretary Navy Department	5.00	5.00
06/16/78	C. Dianne Carlson 6124 Glen Holly Hollywood, CA 90068	Secretary	5.00	5.00
06/16/78	Thomas H. Carmody 151 W. St. James St. San Jose, CA 95110	Attorney Self-employed 151 W. St. James St. San Jose, CA 95110	5.00	5.00
06/21/78	David R. Carpenter 1801 Port Kimberly Place Newport Beach, CA 92660	Not required	10.00	10.00
		SUBTOTAL	537.00	

TE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/01/78	Ella Maxine Cohn 411 East Broadway, Apt. #5 San Gabriel, CA 91776	Housewife	5.00	5.00
06/20/78	Ruth Colombini 1730 South Amphlette Blvd. Suite 125 San Mateo, CA 94403	Secretary	1.00	1.00
06/08/78	Vicky Colvin 1841 North Fuller Avenue, #207 Hollywood, CA 90046	Not required	5.00	5.00
06/21/78	Jaqueline S. Colwell 1633 Wood Road Fullerton, CA 95439	Housewife	2.00	2.00
06/22/78	Joan Compton 552 - 21st Street Richmond, CA 94801	Housewife	1.00	1.00
06/21/78	William E. Conley 2211 Visalia Ave. Richmond, CA 94801	Shop Foreman King Knight Co.	5.00	5.00
06/26/78	Leonard M. Conry 504 I Street Eureka, CA 95501	Attorney at law Self-employed 504 I Street Eureka, CA 95501	5.00	5.00
05/12/78	Consolidated Cigar Corporation 4640 Admiralty Way, Suite 520 Marina Del Rey, CA 90291	N/A	1000.00	1000.00
		SUBTOTAL	1024.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/22/78	Betty J. Crowley 4741 San Feliciano Drive Woodland Hills, CA 91364	Not required	10.00	10.00
06/01/78	Walter W. Cruttenden Jr. 4600 Campus Drive Newport Beach, CA 92660	Investments	1.00	1.00
06/09/78	Margaret W. Cummings 819 Caminito Verde Carlsbad, CA 92008	Retired	5.00	5.00
06/16/78	Michael Curatola 1078 Maple Street Arroyo Grande, CA 93420	Student	1.00	1.00
06/16/78	John W. Curtis MANSTYLE Barber-Stylists 244 Jackson St. San Francisco, CA 94111	Barber-Stylist Self-employed MANSTYLE Barber-Stylists 244 Jackson St. San Francisco, CA 94111	10.00	10.00
06/01/78	Harry Cutting 816 East Fourth Street Long Beach, CA 90802	Tobacco Wholesaler Self-employed 816 East Fourth Street Long Beach, CA 90802	250.00	250.00
06/21/78	Jo Anne Czuba 1971 Santa Inez Court Santa Clara, CA 95051	Secretary Western Electric Company, Inc.	1.00	1.00
06/21/78	Frances R. Dagwell 1122 Alberta Place San Diego, CA 92103	Registered Nurse County University Hospital	5.00	5.00
		SUBTOTAL	283.00	

TE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
/28/78	Larry J. Fuller 4097 Deervale Drive Sherman Oaks, CA 91403	Pacific Environmental Properties, Inc.	50.00	50.00
/20/78	Roberta G. Fuller 1253 Bush Street, # 402 San Francisco, CA 94109	Customer Serv. Specialist General Electric Company	5.00	5.00
5/27/78	Cheryl Fulton 2950 Iris Avenue, #68 San Diego, CA 92154	Student	1.00	1.00
6.20/78	Robert A. Gadiel 1257 Chestnut Street San Francisco, CA 94109	Area Manager	25.00	25.00
06/16/78	Rae Lee Garbero P.O. Box 1327 Los Gatos, CA 95030	Manager Pacific Telephone	2.00	2.00
06/01/78	Violet M. Garner 4317 Duane Way South Gate, CA 90280	Retired	1.00	1.00
06/03/78	Allen Gaskill 4134 1/2 Pixie Street Lakewood, CA 90712	Teacher California College	1.00	1.00
05/01/78	General Cigar & Tobacco Co. A Division of Culbro Corporation P.O.Box 2000 Dayton, NJ 08810	N/A	1000.00	1000.00
		SUBTOTAL	1085.00	

J.A. 313

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			5.00	5.00
06/21/78	Arthur H. Krahl 173 Damascus Loop Pacheco, CA 94553	Not required		
			5.00	5.00
06/21/78	George A. Krieger 535 Vista Bella Oceanside, CA 92054	Chiropractor Self-employed 3747-77 Vista Campano South Oceanside, CA 92054		
			1.00	1.00
06/13/78	Karl H. Kurkowski P.O. Box 30623 Santa Barbara, CA 93105	Real Estate Salesman San Rogue Realty		
			6000.00	6000.00
06/12/78 06/26/78	L. B. Ball & Co. P.O. Box 989 Long Beach, CA 90801	N/A		
			1.00	1.00
06/21/78	Joyce LaLone 536 Tancanyon Duarte, CA 91010	Instructual aid Duarte Unified School District		
			5.00	5.00
06/21/78	James M. LaMar 1247 Quincy Dr. San Jose, CA 95132	Semi-Retired		
			1.00	1.00
06/13/78	R. F. LaMar 4245 - 34th Street, #9 San Diego, CA 92104	Retired		
			10.00	10.00
06/13/78	Howard D. LaMuska 3650 Emerald Street, #Y-1 Torrance, CA 90503	Management Los Angeles Air Force Station		
		SUBTOTAL	6028.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/21/78	Lucille McLaughlin 1307 W. Santa Fe Ave. Merced, CA 95340	Sales & Marketing	5.00	5.00
06/01/78	Glen E. McMillan 2359 Newport Boulevard, Space-66 Costa Mesa, CA 92627	none	2.00	2.00
06/21/78	Ruth G. McMurray 15516 Sunset Blvd. Pacific Palisades, CA 90272	Retired	2.00	2.00
06/21/78	J. M. McNeil 369 Parkway Plaza El Cajon, CA 92020	The Tinder Box	25.00	25.00
06/21/78	Tim Melson 20711 Dunbar Dr. Cupertino, CA 95014	Air Conditioning Mobile Services Unlimited	1.00	1.00
06/28/78 06/28/78	Melvin Sosnick Company 1500 Duane Avenue Santa Clara, CA 95050	N/A	1000.00	1000.00
06/21/78	Edna P. Mendelson 1780 Castro Dr. San Jose, CA 95130	Housewife	5.00	5.00
06/13/78	John J. Mendosa 3835 E. Washington Street Stockton, CA 95205	Retired	1.00	1.00
		SUBTOTAL	1041.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/27/78	Pamela J. Miller 6147 Piedmont Avenue, Apt. 2A Los Angeles, CA 90042	Civil Service Internal Revenue Service	10.00	10.00
06/09/78	Robert H. Miller 1937 Capistrano Avenue Berkeley, CA 94707	Retired	1.00	1.00
06/17/78	W. C. Millhoff 6130 Monterey Rd., No. 44 San Jose, CA 95111	Programmer IBM	1.00	1.00
06/27/78	Kenneth L. Milliken 2250 Kipling Street Castro Valley, CA 94546	Auditor-Appraiser	10.00	10.00
06/01/78	Samuel J. Milne Jr. 13391 Barker Lane Corona, CA 91720	Not required	2.00	2.00
06/21/78	Manuel V. Miranda 6667 Maple Drive Dublin, CA 94566	Steelworker U.S. Steel Corporation	10.00	10.00
06/12/78	Modesto Tobacco & Candy Co. P.O. Box 3776 Modesto, CA 95352	N/A	2000.00	2000.00
06/21/78	Cecil Mondy 2520 Capitola Court Hayward, CA 94545	Housewife	1.00	1.00
		SUBTOTAL	2035.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/20/78	Rita Musich 251 Forest Ave. Santa Cruz, CA 95062	Yard Supervisor Bayview Elementary School	1.00	1.00
06/17/78	Margot E. Musser 652 So. Orange El Cajon, CA 92020	Deputy Clerk II San Diego Municipal Court	1.00	1.00
06/13/78	Robert Nagel 2930 Country Lane Visalia, CA 93277	General Manager Overhead Door Corp.	1.00	1.00
06/16/78	Marilyn A. Nagengast 431 W. Leadora Glendora, CA 91740	Secretary Fluor Engineers & Constructors	1.00	1.00
06/01/78	Helen E. Nast 875 Comstock Avenue, #10B Los Angeles, CA 90024	Retired	10.00	10.00
06/01/78	Nat Cicco, Inc. dba National Cigar Co. 2861 West Pico Boulevard Los Angeles, CA 90006	N/A	250.00	250.00
06/27/78	Dale E. Nelson 2245 Maywood Avenue San Jose, CA 95128	Store Manager	5.00	5.00
06/26/78	Wayne Nevins 818 South Susanna Avenue West Covina, CA 91790	Truck Driver Pacific Clay Products	5.00	5.00
		SUBTOTAL	274.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/22/78	Bernard K. Wilson 23631 San Esteban Mission Viejo, CA 92675	Sales Philip Morris, U.S.A.	5.00	5.00
06/20/78	Paul E. Witzel 6531 Green Gables Ave. San Diego, CA 92119	Supervisor	5.00	5.00
06/16/78	James D. Norris Sr. P.O. Box 550 Bethel Island, CA 94511	Retired Engineer	5.00	5.00
06/06/78	Jean North 78 Los Altos Square Los Altos, CA 94022	Librarian NASA	10.00	10.00
06/30/78	North Coast Distributors P.O. Box 418 San Rafael, CA 94902	N/A	250.00	250.00
06/13/78	Joanne L. Novy 1435 North Myers Street Burbank, CA 91506	Not required	5.00	5.00
06/21/78	Betty Nunley 3116 Airport Rd. Placerville, CA 95667	Not required	1.00	1.00
06/28/78	Osgood G. Nutting 555 Crespi Drive, #308N Pacifica, CA 94044	Retired	10.00	10.00
		SUBTOTAL	291.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/17/78	R. Petrusch 22334 Liber Bell Woodland Hi.. CA 91364	Housewife	1.00	1.00
06/16/78	Louanna Pettay 1701 Devonshire Rd. Sacramento, CA 95825	Professor of Anthropology Cal. State Univ. Sacramento	10.00	10.00
03/24/78 05/12/78	Philip Morris Inc. 100 Park Avenue New York, NY 10017	N/A	75000.00	123000.00
06/16/78	Marie H. Phillips 2065 Mountain Blvd. Oakland, CA 94611	Interior Designer Self-employed Marie H. Phillips Interiors 2065 Mountain Blvd. Oakland, CA 94611	5.00	5.00
06/12/78	Phillips & King Cigar Co. 2068 Mountain View Road El Monte, CA 91733	N/A	500.00	500.00
06/13/78	Helen D. Pollock 923 North Mohawk Avenue Anaheim, CA 92801	Homemaker	1.00	1.00
06/30/78	H. J. Ponting 283 Tate Street Pomona, CA 91767	Shipping Clerk Potlatch Corporation, Northwest Paper Division	1.00	1.00
		SUBTOTAL	75518.00	

ATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
6/05/78	Francis J. Roos 666 Upas Street San Diego, CA 92103	Retired	5.00	5.00
6/16/78	M. D. Ross 322 South 19th Street San Jose, CA 95116	Secretary Integrated Technology Corporation	1.00	1.00
05/12/78	Rowe Automatic Vendors 9645 Aero Drive San Diego, CA 92123	N/A	500.00	500.00
05/16/78 06/12/78	Royal Wholesale Cigar Company- , Ltd. 2939 Bandini Boulevard Los Angeles, CA 90023	N/A	2900.00	2900.00
06/09/78	Howard N. Runde 1511 - 11th Avenue Sacramento, CA 95818	Engineer State of California	15.00	15.00
06/16/78	Al G. Rupp 3131 Central Ave. Spring Valley, CA 92077	Carpenter Calif. Building & Coating	10.00	10.00
06/05/78	Gladys Russell 722 West Bellevue Drive Anaheim, CA 92805	Waitress;Hostess;Cashier	1.00	1.00
06/21/78	Harold Rutledge 270 W. Napa Street, #2R Sonoma, CA 95476	Retired	1.00	1.00
		SUBTOTAL	3433.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/21/78	Paula J. Sheldon 6985 Ann Arbor Way Dublin, CA 94566	Housewife	5.00	5.00
06/21/78	Shiffert's Wholesale, Inc. 329 N.E. Third Ave. Visalia, CA 93277	N/A	250.00	250.00
06/20/78	C. Y. Shipman 1317 Ptarmigan Dr., # 2 Walnut Creek, CA 94595	Housewife	1.00	1.00
06/22/78	L. F. Shumake 8308 East Gainford Street Downey, CA 90240	Retired	1.00	1.00
6/01/78	George W. Sidwell 505 Lancaster Way Redwood City, CA 94062	Custodian City of Menlo Park (Public Works Dept.)	1.00	1.00
06/16/78	Shirley Siegel 7835 Cowles Mountain Ct., Apt- . B22 San Diego, CA 92119	Retired	1.00	1.00
06/13/78	Stephen A. Sielig 5511 Western Avenue Buena Park, CA 90621	Teacher/Mechanic Orange County Honda	5.00	5.00
06/21/78	Seymour Silberman 3450 Granada Ave., Apt. 45 Santa Clara, CA 95051	Property Manager Nova Property Management Co.	1.00	1.00
		SUBTOTAL	265.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
06/13/78	Colleen Willcut 22733 South Main Street Carson, CA 90745	Housewife	1.00	1.00
06/05/78	Margaret F. Willerding 10241 Vivera Drive La Mesa, CA 92041	Author	5.00	5.00
06/30/78	William Barron Candy Co. 2306 West Street Oakland, CA 94612	N/A	500.00	500.00
06/20/78	Jean Williams 1851 Canyon Dr. Hollywood, CA 90028	Legal Secretary	5.00	5.00
06/16/78	W. H. Williamson 9523 Pebble Beach Dr. Santee, CA 92071	Retired U.S.N.	2.00	2.00
06/03/78	E. K. Willis 148 North St. Andrews Place Apartment #4 Los Angeles, CA 90004	Not required	5.00	5.00
06/26/78	Arnold W. Wilson 2317 Hermosa Avenue Hermosa Beach, CA 90254	Owner Self-employed 2751 Hermosa Avenue Hermosa Beach, CA 90254	5.00	5.00
06/26/78	Joan S. Wisser 834 Lori Lane Chula Vista, CA 92010	Administrative Secretary Rohr Industries, Inc.	1.00	1.00
		SUBTOTAL	524.00	

RECIPIENT COMMITTEE CAMPAIGN STATEMENT

(Government Code Section 84200-84216)

EXHIBIT 3

For use by recipient committees which receive a cumulative contribution of $50 or more from a single source.

(Type or Print in Ink)

Statement covers period from 7/1/78 through 9/23/78.

FOR OFFICIAL USE ONLY

I.D. NUMBER 77-1595

NAME OF COMMITTEE: Californians for Common Sense

ADDRESS OF COMMITTEE: NO. AND STREET 22 Battery St., Suite 404 CITY San Francisco STATE CA ZIP CODE 94111 AREA CODE (415) PHONE 392-3327

NAME OF TREASURER: Robert J. Rand, C.P.A.

CURRENT ADDRESS OF TREASURER: NO. AND STREET 22 Battery Street, Suite 412 CITY San Francisco STATE CA ZIP CODE 94111 AREA CODE (415) PHONE 433-1246

TYPE OF ELECTION (CIRCLE ONE IF APPLICABLE): Primary (General) Special Recall

CIRCLE IF APPLICABLE: semi-annual campaign statement

DATE OF ELECTION (Mo. Day Yr.): 11/7/78

TOTAL PAGES: 236

LOCATION OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES

(State expenditures from Schedules E & F by candidates, officeholders and measures; amounts may be rounded off to whole dollars.)

FOR OFFICIAL USE ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE: SUPPORT	CHECK ONE: OPPOSE	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Clean Indoor Air Act		XX	2382287	2928306

Attach additional information on appropriately labeled continuation sheets

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct, complete and that I have used all reasonable diligence in their preparation.

Executed on 10/2/78 (DATE) at San Francisco, CA (CITY AND STATE) by [signature] (SIGNATURE OF TREASURER)

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct, complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement and schedules.

Executed on N/A (DATE) at N/A (CITY AND STATE) by N/A (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

J.A. 323

Information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provisions"

EC CONTRIBUTIONS SCHEDULE Californians for Common Sense

ATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
7/24/78	Briar 'n Leaf Pipe Shop 5904 Southland Park Dr. Sacramento, CA 95822	N/A	25.00	25.00
9/06/78	Faye Brink 4900 N. Highway 99 Space 211 Stockton, CA 95212	Disabled - LVN	3.00	3.00
7/21/78	Price E. Britt 5237 Ashworth Street Lakewood, CA 90712	Retd. Civil Engineer	1.00	1.00
8/03/78	Franklin H. Brown 1740 U Street Rio Linda, CA 95673	Not Required	5.00	5.00
8/24/78	John C. Brown 8281 Somerdale Lane La Palma, CA 90623	Sales	1.00	1.00
7/05/78 7/21/78 7/31/78 8/11/78	Brown & Williamson Tobacco Co- rporation 1600 West Hill Street Louisville, KY 40232	N/A	370000.00	470000.00
9/08/78	James L. Bryant 1675 Rollins Road, Suite B Burlingame, CA 94010	Not Required	2.00	2.00
		SUBTOTAL	370037.00	

ATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
L. 24/78	A. V. Lewis 308 Miraleste Drive # 212 Miraleste, CA 90732	Sales Representative Lorillard	1.00	1.00
09/08/78	John N. Lewis 1596 Mariposa Drive Corona, CA 91720	Not Required	5.00	5.00
07/26/78	Kenneth R. Lewis 5726 Ruthelon Avenue Los Angeles, CA 90062	Tobacco Salesman Philip Morris USA	1.00	1.00
07/18/78	Harry V. Libecap 72 Commercial Portola, CA 96122	Retired Meat Cutter	5.00	5.00
08/16/78	Liggett Group, Inc. 4100 Roxboro Road Durham, NC 27702	N/A	10000.00	13024.92
07/17/78	Stanley J. Linsky 780 Oak Grove Rd., Apt. D-110 Concord, CA 94518	Accountant	10.00	10.00
09/05/78	Ronald E. Lipe 25 Truman Drive Novato, CA 94947	Not Required	1.00	1.00
07/21/78	Dorothy M. Lloyd 1544 No. Hayworth Ave. Los Angeles, CA 90046	Housewife	5.00	5.00
		SUBTOTAL	10028.00	

PC CONTRIBUTIONS SCHEDULE Californians for Common Sense

ATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
8/16/78	Patricia M. Monico 7841 Reseda Blvd. Reseda, CA 91335	Sales Rep Lorillard	1.00	1.00
9/15/78	Richard M. Montante 5028 Big Canyon Lane Fair Oaks, CA 95628	Not Required	1.00	1.00
8/08/78	Elie Moret 1717 Church Street San Francisco, CA 94131	Teamster	2.00	2.00
9/19/78	Berto Moretti 5290 Juan Court San Diego, CA 92115	Salesman R. J. Reynolds Tobacco Company	2.00	2.00
8/10/78	Morgan Cigarette Service 3245 Millsview Avenue Oakland, CA 94619	N/A	50.00	50.00
7/10/78	Mrs. D. E. Morin 4805 Kelly Dr. Carlsbad, CA 92008	Housewife	5.00	5.00
7/05/78	Bruce A. Morrow Jr. 1150 E. Herndon Ave., # 114 Fresno, CA 93710	Teacher Hoover High School	1.00	1.00
7/18/78	Vivian Moss 5117 Myrtle Dr. Concord, CA 94521	Housewife	1.00	1.00
		SUBTOTAL	63.00	

J.A. 328

ATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
'10/78	Charles E. O'Neile Jr. 1276 Allyn Ave. St. Helena, CA 94574	Retired	10.00	10.00
8/24/78	Richard E. O'Connor 2901 Scott San Francisco, CA 94123	Not Required	1.00	1.00
7/24/78	Oakland Cigarette Service, Inc. 8134 Capwell Drive Oakland, CA 94621	N/A	100.00	100.00
7/18/78	K. L. Ochocinsky 4602 Kansas, Apt. 309 San Diego, CA 92116	Retired	1.00	1.00
7/24/78	William M. Olenick 39034 Juniper Tree Road Palmdale, CA 93550	Not Required	1.00	1.00
7/13/78	Sue D. Orvik 134 Haven Hill Court Danville, CA 94526	Homemaker	2.00	2.00
8/27/78	Lois J. Overhiser 4078 Loma Alta Drive San Diego, CA 92115	Secretary	1.00	1.00
7/17/78	Lonnie Pacheco 1750 S. Bentley Los Angeles, CA 90025	Sales Philip Morris USA	1.00	1.00
		SUBTOTAL	117.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
[illegible]/24/78	Alvin E. Rose 23562 Campestre Mission Viejo, CA 92675	Sales Self-employed	5.00	5.00
08/01/78	Jack Ross 12015 Burbank # 4 North Hollywood, CA 91607	Sales Representative Philip Morris USA	1.00	1.00
07/13/78 08/07/78 [illegible]/12/78	Royal Wholesale Cigar Company- , Ltd. 2939 Bandini Boulevard Los Angeles, CA 90023	N/A	4400.00	7300.00
07/13/78	Angela Sanders 2123 Pacific Ave. Alameda, CA 94501	Accounting Technician NAS	1.00	1.00
07/26/78	Laura B. Sanders 3850 Olive Avenue Long Beach, CA 90807	Personnel Manager L.B. Ball & Co.	25.00	25.00
07/10/78	Patricia A. Santiman 8 Brooks Ave., # 1 Venice, CA 90291	Retired	5.00	5.00
09/15/78	Larry Scarfia 1165 E. Hollyvale St., No. 6 Azusa, CA 91720	Not Required	5.00	5.00
[illegible]/10/78	Orven Schanzer 6720 Hillpark Dr., Apt. 102 Los Angeles, CA 90068	"	5.00	5.00
		SUBTOTAL	4447.00	

	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
	Michael Serrano 34389 Auckland Court Fremont, CA 94536	Not Required	2.00	2.00
18/78	Ashok C. Shah 2922 Aduana Dr. Arcadia, CA 91006	Engineer Parker Monnifin	1.00	1.00
17/78	Kathe Shea 2635 Locksley Place Los Angeles, CA 90039	Actress Screen Actors' Guild--Los Angeles	5.00	5.00
/24/78	Shiffert's Wholesale, Inc. 329 N.E. Third Ave. Visalia, CA 93277	N/A	250.00	500.00
/10/78	Jean M. Shipley 9113 Catteraugus Los Angeles, CA 90034	Not Required	5.00	5.00
06/78	D. Shuart 1150 S. Lake Street Los Angeles, CA 90006	Labor Pride Drycleaning Service	1.00	1.00
27/78	Sol J. Siegel 5215 Sepulveda #13-B Culver City, CA 90230	Salesman Lorillard Corp.	2.00	2.00
/10/78	Elizabeth U. Simms 5123 Elmwood Dr. San Jose, CA 95130	Homemaker	5.00	5.00
		SUBTOTAL	271.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
/30/78	Michael T. Sweeney 3440 De La Cruz Blvd. P.O. Box 148 Santa Clara, CA 95050	Not Required	5.00	5.00
7/15/78	Lawrence T. Tanimoto 19420 E. Avenida Del Sol Walnut Grove, CA 91789	Secretary Lorillard	10.00	10.00
07/05/78	George A. Tate 1169 Garfield Ave. San Jose, CA 95125	Disabled Saleman	1.00	1.00
07/10/78	James E. Tate # 6-9041 ElDorado Pkwy. El Cajon, CA 92021	Electrician Siegel Elect.	5.00	5.00
07/21/78	John E. Tatman 403 So. Pine Street Nevada City, CA 95959	Retd. Teamster	1.00	1.00
08/24/78	Eric Ian Taylor 2031 Dracena Drive # 202 Los Angeles, CA 90027	Sales Phillip Morris U.S.A.	2.00	2.00
07/24/78	The Cigar Warehouse 15121 Ventura Blvd. Sherman Oaks, CA 91403	N/A	25.00	25.00
07/28/78	The Tinder Box Pipe Shop of Walnut Creek 1290 South Main St. Walnut Creek, CA 94596	N/A	10.00	10.00
		SUBTOTAL	59.00	

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
7/13/78	Alice Tilton Thorne 321 Via Gayuba Monterey, CA 93940	Retired	5.00	5.00
7/13/78	Richard Tilden 20966 Nunes Avenue Castro Valley, CA 94546	Plumber Amaral Plumbing	3.50	3.50
8/16/78	Henry A. Tiley 1978 Brown Street Napa Junction, CA 94558	Retired	5.00	5.00
8/10/78	Tobacco Exporters International, LTD. c/o Alfred Dunhill of London, Inc. Dept. T.E.I. 290 Post Street San Francisco, CA 94108	N/A	5000.00	5000.00
6/16/78	Dolores Townsend 6857 Escallonia Drive Orangevale, CA 95662	Civil Service Employee McClellan AFB	1.00	1.00
7/13/78	Alfred J. Tschopp 1915 Glen Street Marysville, CA 95901	Minister	5.00	5.00
8/14/78	D. C. Turner 4100 Easton Drive. 13 Bakersfield, CA 93309	Not Required	5.00	5.00
9/01/78	Jesse C. Ussery 1136 South Keniston Avenue Los Angeles, CA 90019	Data Control Assistant Dept of Water and Power	15.00	15.00
		SUBTOTAL	5039.50	

CONTRIBUTIONS SCHEDULE Californians for Common Sense

E	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
13/78	Ida C. Wilson Rt. 1, Box 71 Trinidad, CA 95570	Not Required	5.00	5.00
/05/78	Jean Wilson 5004 Farago Ave., No. 6 Temple City, CA 91780	Senior Clerk Typist City of L.A./ Dept. of Recreation & Parks	1.00	1.00
/28/78	Hans Wittner 169 South Fairfax Avenue Los Angeles, CA 90036	Tobacconist Wittners	25.00	25.00
/24/78	Helen M. Woillard P.O. Box 894 Fremont, CA 94537	Retired	5.00	5.00
/01/78	Thomas G. Wolfe 7491 Center Parkway Sacramento, CA 95823	Not Required	1.00	1.00
/25/78	J. D. Yonan 13304 Arakara Poway, CA 92064	Sales Manager Lorillard Corp.	1.00	1.00
/10/78	Frances K. Young 385 West Orange Grove Ave. Sierra Madre, CA 91024	Housewife	5.00	5.00
/16/78	William M. Zahn 733 W. 165th Place Gardena, CA 90247	Sales Rep Lorillard	1.00	1.00
		SUBTOTAL	44.00	

J.A. 333

RECIPIENT COMMITTEE CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

EXHIBIT 4

For use by recipient committees which receive a cumulative contribution of $50 or more from a single source.

(Type or Print in Ink)

Statement covers period from 9/24/78 through 10/23/78

A OFFICIAL USE ONLY

I.D. NUMBER 77-1595

E OF COMMITTEE: Californians for Common Sense

RESS OF COMMITTEE: NO. AND STREET 22 Battery Street, Suite 404, CITY San Francisco, STATE CA ZIP CODE 94111 AREA CODE (415) PHONE NO. 392-3804

IE OF TREASURER: Robert J. Rand, C.P.A.

MANENT ADDRESS OF TREASURER: NO. AND STREET 22 Battery Street, Suite 412, CITY San Francisco, STATE CA ZIP CODE 94111 AREA CODE (415) PHONE NO. 433-1246

YPE OF ELECTION (CIRCLE ONE IF APPLICABLE): Primary (General) Special Recall

CIRCLE IF APPLICABLE: semi-annual campaign statement

DATE OF ELECTION (Mo. Day Yr.): 11/07/78

TOTAL PAGES: 145

LOCATION OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES
(Locate expenditures from Schedules E & F by candidates, officeholders and measures; amounts may be rounded off to whole dollars.)

OFFICIAL USE ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE: support	CHECK ONE: oppose	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Clean Indoor Air Act (Prop 5)		XXX	1693804	4622110

Attach additional information on appropriately labeled continuation sheets

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct a complete and that I have used all reasonable diligence in their preparation.

Executed on 10/26/78 (DATE) at San Francisco, CA (CITY AND STATE) by _____ (SIGNATURE OF TREASURER)

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct a complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement and schedules.

Executed on N/A (DATE) at N/A (CITY AND STATE) by N/A (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

J.A. 334

or information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provision to Political Reform Act," Section XI.

2F

Californians For Common Sense I.D. NUMBER (If Committee)

Statement covers period from 9/24/78 through 10/23/78

SCHEDULE C, FORM 420, 430 or 490
NON-MONETARY CONTRIBUTIONS RECEIVED

(Amounts may be rounded off to whole dollars)

information manual for directions and examples

DATE	FULL NAME AND ADDRESS AND I.D. NUMBER (If Committee)	OCCUPATION	EMPLOYER (If Self-Employed, List Address)	DESCRIPTION OF GOODS OR SERVICES	FAIR MARKET VALUE RECEIVED	CUMULATIVE AMOUNT
/24 thru 10/23	Brown & Williamson Tobacco Co 1600 West Hill Street Louisville, Kentucky 40232	N/A	N/A	Travel expense, (airfare, meals, lodging, etc) of B&W personnel	638	9,680
"	Lorillard 666 Fifth Avenue New York, N.Y. 10019	N/A	N/A	Salaries, travel expense (meals, lodging, airfare) of personnel	1,515	35,318
"	R. J. Reynolds Tobacco Co. 1612 Reynolds Bldg. 4th & Main Streets Winston-Salem, N.C. 27102	N/A	N/A	"	2,976	24,909
"	Philip Morris, Inc. 100 Park Avenue New York, N. Y. 10017	N/A	N/A	"	13,475	84,561
"	Liggett & Myers, Inc. 4100 Roxboro Road Durham, North Carolina 27702	N/A	N/A	"	1,323	12,428
"	Tobacco Institute 1776 "K" Street, NW Washington, D. C. 20006	N/A	N/A	"	9,529	58,487
"	L. B. Ball & Company 3100 E. 29th Street Long Beach, CA 90801	N/A	N/A	Refreshments	26	26
				SUBTOTAL $	29,482	

Attach additional information on appropriately labeled continuation sheets.

SUMMARY J. A. 335

1. NON-MONETARY CONTRIBUTIONS OF $50 OR MORE THIS PERIOD	$ 29,482
2. NON-MONETARY CONTRIBUTIONS UNDER $50 THIS PERIOD (Not Itemized)	-0-
3. TOTAL NON-MONETARY CONTRIBUTIONS THIS PERIOD (Line 1 + 2, enter on Line 5, Page 8 of Summary Page)	$ 29,482

	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
9/78	A.B.C. Cigar Co. 71 Haight Street San Francisco, CA 94102	Not applicable	25.00	25.00
20/78	George W. Adams 5971 Annrud Way Sacramento, CA 95822	Accounting Office II State of California Caltrans	10.00	20.00
03/78	Isabel L. Adams 875 San Ysidro Road Santa Barbara, CA 93108	Retired	25.00	25.00
06/78	Kramer A. Adams P.O. Box 26001 San Francisco, CA 94126	Not required	1.00	1.00
29/78	Advance Automatic Sales Co., Inc. 1350 Howard St., San Francisco, CA 94103	Not applicable	50.00	50.00
13/78	James P. Almas M.D. 1609 Fremont Ave., Apt.302 South Pasadena, CA 91030	Not required	10.00	10.00
13/78	Anonymously Contributed Amount	Not required	1.00	56.91
13/78	Virginia Andersen 3336 Mildred Lane Lafayette, CA 94549	Not required	1.00	1.00
05/78	Robin K. Apperson 16198 Warfield Lathrop, CA 95330	Sales Rep.	5.00	5.00
		SUBTOTAL	128.00	

J.A. 336

	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
.78	Mark Berney 7915 Moorcrort Canoga Park, CA 91304	Salesman Glaser Bros.	15.00	15.00
13/78	Stamps Bethel 3037 Sonoma Ave., Apt.148 Santa Rosa, CA 95405	retired	10.00	10.00
29/78	Alejandro M. Blanco 10761 Jasmine Loma Linda, CA 98234	Sales representative Lorillard Corp.	1.00	1.00
29/78	Richard W. Blankenship 114 Alice Street Anaheim, CA 92806	Division Sales Manager B & W Tobaccco	2.00	2.00
13/78	L. J. Boggess 14 Whaleship Plaza San Francisco, CA 94111	Not required	5.00	5.00
29/78	Roy Bradley 1710 Cordova Street Los Angeles, CA 90007	Self-employed 1710 Cordova Street Los Angeles, CA 90007	50.00	50.00
29/78	Franklin H. Brown 1740 U Street Rio Linda, CA 95673	Not required	10.00	15.00
27/78	Brown & Williamson Tobacco Corporation 1600 West Hill Street Louisville, KY 40232	Not applicable SEE SCHEDULE "C"	400000.00	870000.00
		SUBTOTAL	400093.00	

CONTRIBUTIONS SCHEDULE Californians for Common Sense

	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			1.00	1.00
/78	E. Downs 1300 55th Street Emeryville, CA 94608	Not required		
			1.00	1.00
29/78	R. S. Elkins 10050 Woodpark Drive Santee, CA 92071	Not required		
			500.00	500.00
29/78	F. W. Strickler & Son 4540 Stine Road Bakersfield, CA 93309	Not applicable		
			1.00	1.00
/20/78	Jack A. Farley 1907 5th Avenue San Rafael, CA 94901	semi retired		
			10.00	10.00
/10/78	Jeffrey K. Farmer 211 Third Avenue #7 Redwood City, CA 94063	Not required		
			1.00	1.00
/10/78	Maytell Fedash 640 Wilson Richmond, CA 94805	Not required		
			1.00	1.00
29/78	D. R. Ferrigan 149 Kenny Avenue Santa Cruz, CA 95065	Sales		
			5.00	5.00
0/06/78	William P. Ficker 610 Newport Center Drive Suite 1120 Newport Beach, CA 92660	Architect Self-employed 610 Newport Center Drive Suite 1120 Newport Beach, CA 92660		
		SUBTOTAL	520.00	

J.A. 338

E	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			5.00	5.00
/78	Donald C. Lorensen 4304 Ridgecrest Drive Eureka, CA 95501	Not required		
			200000.00	584545.00
26/78	Lorillard A Division of Loews Theatres, Inc. 200 East 42nd Street New York, NY 10017	Not applicable SEE SCHEDULE "C"		
29/78	Joan M. Lubamersky 750 8th Avenue San Francisco, CA 94118	Staff Assistant	20.00	20.00
/29/78	Jonnie A. Lucas 948 Columbia Merced, CA 95340	Sales Rep. R. J. Reynolds Tobacco Co.	5.00	5.00
/13/78	L. H. Luppen 970 North Alpine Drive Beverly Hills, CA 90210	manufacturing MPE Inc.	10.00	10.00
9/29/78	R. M. Marcucci 6149 Ranger Way Carmichael, CA 95608	Sales Rep.	2.00	2.00
			25.00	25.00
0/02/78	Albert Marigan 135 Balceta Avenue San Francisco, CA 94127	Not required		
			10.00	10.00
0/20/78	Dorothy L. Martin 651 Duncan Street San Francisco, CA 94131	Not required		
		SUBTOTAL	200077.00	

J.A. 339

	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
9/78	Mary H. Phelps 3141 Palm Street San Diego, CA 92104	housewife	5.00	5.00
6/78	Philip Morris Inc. 100 Park Avenue New York, NY 10017	Not applicable SEE SCHEDULE "C"	595000.00	1360000.00
16/78	Clarence Pine 3050 West Ball Rd., No. 27 Anaheim, CA 92804	Not required	5.00	5.00
2/78	Pioneer Liquor Store 1305 Market Street Redding, CA 96001	Not applicable	15.00	15.00
20/78	Pipe Pourri, Ltd. 31143 Via Colinas #405 Westlake, CA 91361	Not applicable	30.00	30.00
10/78	Louis J. Poletti Poletti Realty 333 El Camino Real South San Francisco, CA 94080	Realtor (Owner)	25.00	25.00
10/78	E. Pollman 4217 E. Ocean Blvd. Long Beach, CA 90803	Motel Operator	5.00	5.00
29/78	Luis Henry Posse 805 Lafayette Martinez, CA 94553	Sales Rep	5.00	5.00
		SUBTOTAL	595090.00	

	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			1.00	1.00
06/78	Ron Posz P.O. Box 31 Pollock Pines, CA 95726	Not required		
			25.00	25.00
7/78	Charles A. Price 939 Terminal Way San Carlos, CA 94070	Jm. Porter		
			1.00	1.00
29/78	Wesley J. Purkiss 834 W. Duarte, No. 16 Arcadia, CA 91006	Salesman		
			25.00	25.00
/29/78	R. N. Buchwalter Co. 300 S. Sycamore Avenue Rialto, CA 92373	Not applicable		
			500000.00	1669785.59
/25/78	R.J. Reynolds Tobacco Company Winston-Salem, NC 27102	SEE SCHEDULE "C" Not applicable		
			1.00	1.00
0/10/78	Helen S. Regan 4720 Lamont Avenue #10 San Diego, CA 92109	Not required		
			1.00	1.00
29/78	E. F. Ridley 8 Rosemary Circle Chico, CA 95926	Sales Rep. R. J. Reynolds Tobacco Co.		
			25.00	25.00
0/11/78	Leo Roon 7911 Herschel Avenue, Suite 4-09 La Jolla, CA 92037	Retired		
		SUBTOTAL	500079.00	

E	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
0>/78	John H. Rouse 9681 Halekulani Drive Garden Grove, CA 92641	Engineer Douglas Aircrart Co.	2.00	2.00
23/78	Royal Wholesale Cigar Company- , Ltd. 2939 Pandini Boulevard Los Angeles, CA 90023	Not applicable	1400.00	8700.00
02/78	James F. Ryan 274 Pamela Drive #8 Mountain View, CA 94040	Planner Westinghouse Electric Corporation	25.00	25.00
/13/78	Larri M. Ryan 7710 W. 81st St. Venice, CA 90291	office Campus Natural Foods	1.00	1.00
1/29/78	Timothy Dennis Ryan 1720 Opecnee Way Glendale, CA 91208	Sales R. J. Reynolds	1.00	1.00
9/29/78	Robert P. Santillano 3233 Nostrom Way Sacramento, CA 95833	Salesman Brown & Williamson Tobacco Co.	1.00	1.00
9/29/78	Steve Saroyer 1300 Saratoga Avenue #2100 Ventura, CA 93003	Sales Rep. R. J. Reynolds	10.00	10.00
0/10/78	Martha J. Scanlon 405 Baker Street San Francisco, CA 94117	Not required	1.00	1.00
		SUBTOTAL	1441.00	

J.A. 342

CONTRIBUTIONS SCHEDULE Cali[illegible]nians for Common Sense 09/2[illegible]/78 TO 10/23/78 PAGE 42

	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
6/78	Ann Sebastian 314 Morningsun Mill Valley, CA 94941	Not required	5.00	5.00
/78	Anna T. Shelton 3626 1/2 Wilson San Diego, CA 92104	Not required	1.00	1.00
13/78	T. M. Sherron 1134 Palo Alto Fresno, CA 93710	Salesman R. J. Reynolds	1.00	1.00
20/78	Shiffert's Wholesale, Inc. 329 N.E. Third Ave. Visalia, CA 93277	Not applicable	300.00	800.00
29/78	Earline Simmons 310 Audobon Lodi, CA 95240	Sales Rep Philip Morris U.S.A.	1.00	1.00
/29/78	D. Heidi Simons 529 Q Street Sacramento, CA 95814	Teacher Davis Joint Unified	10.00	10.00
29/78	Tery W. Siteo 644 Anna Street Broderick, CA 95605	Cigarette Vender	1.00	1.00
5/78	Edward J. Skillin 5917 Citadel Circle La Jolla, CA 92037	Retired	1.00	1.00
		SUBTOTAL	320.00	

J.A. 343

TE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			1.00	1.00
/.1/78	Marjorie Wilson 155 Del Mesa Carmel Carmel, CA 93921	Not required		
			5.00	5.00
1/29/78	Raymond W. Wilson Box 682 Frazier Park, CA 93225	Sales Rep. Philip Morris		
			1.00	1.00
0/20/78	Jackie Winstead 4300 Melody Lane Redding, CA 96001	secretary		
			25.00	50.00
9/29/78	Hans Wittner 109 South Fairfax Avenue Los Angeles, CA 90036	Tobacconist Wittners		
			1.00	1.00
9/29/78	Patricia A. Wynn 243 Acalanes #10 Sunnyvale, CA 94086	Lorillard Tobacco Co.		
			10.00	10.00
09/29/78	Joe Yanchurak 455 Eddy Street #1605 San Francisco, CA 94109	Vending Machine Mechanic Glenn Rowe Vending Co.		
			2.00	2.00
0/13/78	James T. Yoshida 6864 Weaver St. Riverside, CA 92504	sales B & W Tobacco Corp.		
			1.00	1.00
10/10/78	Dorth Young 1057 El Solyo Campbell, CA 95008	Not required		
		SUBTOTAL	46.00	

J.A. 344

Form 420

RECIPIENT COMMITTEE CAMPAIGN STATEMENT

(Government Code Section 84200–84216)

EXHIBIT 5

For use by recipient committees which receive a cumulative contribution of $50 or more from a single source.

(Type or Print in Ink)

Statement covers period from 10/24/78 through 12/31/78.

118567

A OFFICIAL USE ONLY

I.D. NUMBER
77-1595

NAME OF COMMITTEE: Californians for Common Sense

ADDRESS OF COMMITTEE: NO. AND STREET 22 Battery Street, Suite 404 CITY San Francisco STATE CA ZIP CODE 94111 AREA CODE (415) PHONE NO. 392-3804

NAME OF TREASURER: Robert J. Rand, C.P.A.

PERMANENT ADDRESS OF TREASURER: NO. AND STREET 22 Battery Street, Suite 412 CITY San Francisco STATE CA ZIP CODE 94111 AREA CODE (415) PHONE NO. 433-1246

TYPE OF ELECTION (CIRCLE ONE IF APPLICABLE): Primary (General) Special Recall

CIRCLE IF APPLICABLE: semi-annual campaign statement

DATE OF ELECTION (Mo. Day Yr.): 11/07/78

TOTAL PAGES: 236

ALLOCATION OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES
(Allocate expenditures from Schedules E & F by candidates, officeholders and measures, amounts may be rounded off to whole dollars.)

OFFICIAL USE ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE: SUPPORT	CHECK ONE: OPPOSE	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Clean Indoor Air Act (Proposition 5)		XX	1380224	6002334

Attach additional information on appropriately labeled continuation sheets

C

D

E

F

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and that I have used all reasonable diligence in their preparation.

Executed on 1/31/79 (DATE) at San Francisco, CA (CITY AND STATE) by [signature] (SIGNATURE OF TREASURER) Robert J. Rand, C.P.A. (PRINTED NAME OF TREASURER)

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement and its schedules.

Executed on N/A (DATE) at N/A (CITY AND STATE) by N/A (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

For information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provisions of the Political Reform Act," Section XI.

J.A. 345

SUMMARY PAGE

Statement covers period from 10/24/78 through 12/31/78.

Name: Californians for Common Sense
(If this is a consolidated report (Form 490) include the name of the candidate and committee.)

I.D. Number (If Committee): 77-1595

	COLUMN A Cumulative total from previous period*	COLUMN B Total this period from attached schedules	COLUMN C Cumulative to date – Total of Columns A & B
RECEIPTS			
1. Monetary contributions received	$4577664.49	$ 28459.60 (Page 4, Line 5)	$4606124.09
2. Loans	-0-	1365300.00 (Page 5, Line 9)	1365300.00
3. Miscellaneous receipts (attach explanation)	2615.28	19481.88	22097.16
4. Total cash received (Net)	$4580279.77 (Add Lines 1 + 2 + 3 above)	$1413241.48 (Add Lines 1 + 2 + 3 above)	$5993521.25 (Add Lines 1 + 2 + 3 above)
5. Non-monetary contributions received	235656.00	112498.00 (Page 6, Line 3)	348154.00
6. Pledges	-0-	-0- (Page 7, Line 7)	-0-
7. Total receipts	$4815935.77 (Add Lines 4 + 5 + 6 above)	$1525739.48 (Add Lines 4 + 5 + 6 above)	$6341675.25 (Add Lines 4 + 5 + 6 above (Should equal Columns A + B)
EXPENDITURES			
8. Payments	$4551187.45	$1419658.26 (Page 9, Line 6)	$5970845.71
9. Accrued expenses (unpaid bills)	70922.73	(39434.69) (Page 10, Line 5)	31488.04
10. Total expenditures	$4622110.18 (Add Lines 8 & 9 above)	$1380223.57 (Add Lines 8 & 9 above)	$6002333.75 (Add Lines 8 & 9 above (Should equal Columns A + B)

STATEMENT OF CHANGES IN FINANCIAL CONDITION

11. Cash on hand at the beginning of this period	$ 29092.32	
12. Cash receipts this period (Line 4, column B above)	1413241.48	
13. Cash payments this period (Line 8, column B above)	1419658.26	
14. Cash on hand at closing date (Lines 11 + 12 – 13 above)	22675.54	
15. Outstanding debts (Line 2 + Line 9, of Column C above)	1396788.04	
16. Surplus (if Line 14 is greater than Line 15, subtract Line 15 from Line 14)		$ -0-
17. Deficit (if Line 15 is greater than Line 14, subtract Line 14 from Line 15)		$(1374112.50)

*If this is the first report filed or if the last report was a post-election statement, Column A should be blank except for uncaid loans, bills or pledges.

J.A. 346

ALIFORNIANS FOR COMMON SENSE" I.D. NUMBER: [illegible]

Statement covers period from 10/24/78 through 12/31/78

SCHEDULE C, FORM 420, 430 or 490
NON-MONETARY CONTRIBUTIONS RECEIVED

(Amounts may be rounded off to whole dollars)

mation manual for directions and examples

FULL NAME AND ADDRESS AND I.D. NUMBER (If Committee)	OCCUPATION	EMPLOYER (If Self-Employed, List Address)	DESCRIPTION OF GOODS OR SERVICES	FAIR MARKET VALUE RECEIVED	CUMULATIVE AMOUNT
Brown & Williamson Tobacco Co. 1600 West Hill Street Louisville, Kentucky 40232	N/A	N/A	Travel expense (airfare, meals lodging, salaries, etc.)	$ 2,581	$ 12,143
Lorillard 666 Fifth Avenue New York, N. Y. 10019	"	"	"	18,230	53,394
R. J. Reynolds Tobacco Co. 1612 Reynolds Bldg. 11th & Main Streets Winston-Salem, N.C. 27102	"	"	"	26,905	51,946
Philip Morris, Inc. 100 Park Avenue New York, N. Y. 10017	"	"	"	52,747	132,308
Liggett & Myers, Inc. 4100 Roxboro Road Durham, N.C. 27702	"	"	"	-0-	13,448
Tobacco Institute 1776 "K" Street, N.W. Washington, D. C. 20006	"	"	"	21,221	79,708
California Association of Tobacco & Candy Dist. 1225 Eight Street, #325 Sacramento, CA 95814	"	"	Reimbursement by Tobacco Institute, 1776 "K" St., N.W.	(9,186)	-0-
			Washington, D.C. 20006 for non-monetary contributions previously reported in support of Californians for Common Sense		

n additional information on appropriately labeled continuation sheets.

J. A. 347

SUBTOTAL $ 112,498

SUMMARY

ON-MONETARY CONTRIBUTIONS OF $50 OR MORE THIS PERIOD ..... $ 112,498

ON-MONETARY CONTRIBUTIONS UNDER $50 THIS PERIOD (Not Itemized) ..... -0-

[illegible] THIS PERIOD [illegible] enter on Line 5 112,498

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
[illegible]/78	Sarah W. Clark 25275 Via Pietra Roju Laguna Niguel, CA 92677	Not required	2.00	2.00
10/24/78	Rowena Cohan-Waters 20 Carmel Avenue Salinas, CA 93901	Hudson-Cohan Publishing Company	100.00	100.00
11/02/78	Hulda M. Corley 1057 Coulter Simi Valley, CA 93065	Not required	1.00	1.00
11/03/78	Crocker National Corporation One Montgomery Street San Francisco, CA 94104	Not applicable	500.00	500.00
11/03/78	Ceasar S. Cuison 20 E. Lafayette Stockton, CA 95203	Gardener	5.00	5.00
11/02/78	Paul DeBerry P.O. Box 4561 Modesto, CA 95352	Not required	1.00	1.00
10/24/78	Del Monte Corporation P.O. Box 3575 San Francisco, CA 94119	Not applicable	1000.00	1000.00
10/30/78	Dorothy G. Del Valle 1001 California Street San Francisco, CA 94109	Not employed	100.00	100.00
11/03/78	Vincent F. DiQuarto 14307 Beaver Street San Francisco, CA 91342	Not required	10.00	10.00
		SUBTOTAL	1719.00	

CONTRIBUTIONS SCHEDULE Californians for Common Sense — 10/24/78 TO 12/31/78 PAGE

E	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			25.00	25.00
/78	Michael E. Kelly 757 La Roda Santa Barbara, CA 93111	Not required		
			5.00	5.00
/02/78	Margery G. Koehler 69 East View Avenue Tiburon, CA 94920	Not required		
			10.00	10.00
/01/78	Katherine A. Kovitch 1770 9th Avenue Apt. 13 San Francisco, CA 94122	Not required		
			5.00	5.00
1/16/78	Sharie M. Kumaishi 753 Marview Lane Solana Beach, CA 92075	Not required		
			9000.00	15000.00
1/02/78 1/21/78	L. B. Bali & Co. P.O. Box 989 Long Beach, CA 90801	Not applicable		
			200.00	200.00
0/30/78	Lawry's Foods, Inc. 500 San Fernando Road Los Angeles, CA 90065	Not applicable		
			15000.00	15000.00
11/06/78	Liggett Group Inc. 4100 Roxboro Road Durham, NC 27702	Not applicable		
			1.00	1.00
0/24/78	Z. L. Macon 1106 Turningbend Claremont, CA 91711	Sales Rep. Philip Morris, U.S.A.		
		SUBTOTAL	24246.00	

J.A. 349

DATE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			1.00	1.00
/78	Reese Alan Pressley Ringwood Norwalk, CA 80650	Not required		
			1300.00	10000.00
03/78	Royal Wholesale Cigar Company- , Ltd. 2939 Bandini Boulevard Los Angeles, CA 90023	Not applicable		
			5.00	5.00
/02/78	Drucie SanFilippo 5952 Via Madero San Jose, CA 95120	Not required		
			10.00	10.00
1/25/78	John H. Schutz 2967 Woodside Road Woodside, CA 94062	Restaurateur Self-employed Village Pub, Inc. 2967 Woodside Road Woodside, CA 94062		
			10.00	10.00
1/02/78	Doris K. Seward 6270 S. Hill Whittier, CA 90601	Not required		
			1.00	1.00
11/06/78	Bob Shank 1214 Sanderling Fairfield, CA 94533	Not required		
			5.00	5.00
11/06/78	Ray Siemers 930 Post Street, No.22 San Francisco, CA 94109	Not required		
			1.00	1.00
11/06/78	Philip D. Siepel 3000 Taffrail Oxnard, CA 93030	Not required		
		SUBTOTAL	1333.00	

CONTRIBUTIONS SCHEDULE Californians for Common Sense

ITE	NAME ADDRESS	OCCUPATION, EMPLOYER BUSINESS ADDRESS	CURRENT PERIOD	CUMULATIVE TOTAL
			1.00	1.00
.06/78	Francis X. Vizena 1456 San Carlos Avenue No. 203 San Carlos, CA 94070	Not required		
			1.00	1.00
,02/78	Ruthie Vignau 210 LWR Casitas Greenbrae, CA 94904	Not required		
			25.00	25.00
1/02/78	Edward A. Wachter 350 W. 130th Street Los Angeles, CA 90061	Not required		
			1.00	1.00
10/24/78	H. M. Wahle 6441 Bounty Court San Diego, CA 92120	Salesman Lorillard Corp.		
			10.00	10.00
11/03/78	Harriette Lewis Williams 10 Skylark Drive Apt. 15 Larkspur, CA 94939	Not required		
			100.00	100.00
10/24/78	Williams & Lane, Inc. 1077 Eastshore Hwy Berkeley, CA 94710	Not applicable		
			10.00	10.00
11/02/78	Jack Willis 819 N. La Jolla Los Angeles, CA 90046	Minister		
			100.00	100.00
11/02/78	Witnners 169 South Fairfax Avenue Los Angeles, CA 90036	Not applicable		
		SUBTOTAL	248.00	

FPPC Form 420
1979

CAMPAIGN STATEMENT

(Government Code Section 84200-84216)

EXHIBIT 6

For use by recipient committees which receive a cumulative contribution of $100 or more from a single source.

(Type or Print in Ink)

Statement covers period from 1/1/79 through 6/30/79.

	12717 3
	127
A OFFICIAL USE ONLY	

FILED
JAN 9 3 39 PM '80
REGISTRAR OF VOTERS

AMENDMENT

I.D. NUMBER: 771595

NAME OF COMMITTEE:
CALIFORNIANS FOR COMMON SENSE

ADDRESS OF COMMITTEE: NO. AND STREET, CITY, STATE, ZIP CODE, AREA CODE, PHONE NO.
One Maritime Plaza, Suite 2500, San Francisco, CA 94111 (415) 362-1940

NAME OF TREASURER:
John E. Mueller

PERMANENT ADDRESS OF TREASURER: NO. AND STREET, CITY, STATE, ZIP CODE, AREA CODE, PHONE NO.
One Maritime Plaza, Suite 2500, San Francisco, CA 94111 (415) 362-1940

TYPE OF ELECTION (CIRCLE ONE IF APPLICABLE): Primary General Special Recall	CIRCLE IF APPLICABLE: semi-annual campaign statement	DATE OF ELECTION (Mo. Day Yr.): November 7, 1978	TOTAL PAGES: 42

LOCATION OF EXPENDITURES BY CANDIDATES, OFFICEHOLDERS AND MEASURES
(Locate expenditures from Schedules E & F by candidates, officeholders and measures; amounts may be rounded off to whole dollars.)

OFFICIAL USE ONLY	NAME OF CANDIDATE OR OFFICEHOLDER AND OFFICE OR MEASURE AND BALLOT NUMBER OR LETTER	CHECK ONE: SUPPORT	CHECK ONE: OPPOSE	AMOUNT OF EXPENDITURES THIS PERIOD	CUMULATIVE TO DATE
	Clean Indoor Air Act - Prop. 5	XX			

Attach additional information on appropriately labeled continuation sheet

VERIFICATION

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and that I have used all reasonable diligence in their preparation.

Executed on 1/8/80 (DATE) at San Francisco, CA (CITY AND STATE) by John E. Mueller (SIGNATURE OF TREASURER)

A candidate or officeholder who controls a committee must also verify the campaign statement.

I declare under penalty of perjury that to the best of my knowledge this statement and its schedules are true, correct and complete and the treasurer of this committee has used all reasonable diligence in the preparation of this statement and its schedules.

Executed on N/A (DATE) at N/A (CITY AND STATE) by N/A (SIGNATURE OF CANDIDATE OR OFFICEHOLDER)

J.A. 352

No information required to be provided to you pursuant to the Information Practices Act of 1977, see "Information Manual on Campaign Disclosure Provisions of the Political Reform Act," Section XI.

Statement en period from 1/1/79 through :/30/79.

CALIFORNIANS FOR COMMON SENSE
(If a consolidated report (Form 490) include the name of the candidate and committee.)

Number 771595
(If assigned)

	COLUMN A Cumulative total from previous period*	COLUMN B Total this period from attached schedules	COLUMN C Cumulative to date – Total o Columns A &
RECEIPTS			
Monetary contributions received	$ -0-	$ 1,397,800.00 (Page 4, Line 8)	$ 1,397,800.
Loans	-0-	(1,365,300.00) (Page 8, Line 9)	(1,365,300.
Miscellaneous receipts (attach explanation)	-0-	59,668.26	59,668.
Total cash received (Net)	$ -0- (Add Lines 1 + 2 + 3 above)	$ 92,168.26 (Add Lines 1 + 2 + 3 above)	$ 92,198. (Add Lines 1 + 2 + 3 above)
Non-monetary contributions received	-0-	-0- (Page 6, Line 3)	-0-
Pledges	-0-	-0- (Page 7, Line 7)	-0-
Total receipts	$ -0- (Add Lines 4 + 5 + 6 above)	$ 92,168.26 (Add Lines 4 + 5 + 6 above)	$ 92,168. (Add Lines 4 + 5 + 6 above (Should equal Columns A + B)
EXPENDITURES			
Payments	$ -0-	$ 97,462.60* (Page 9, Line 6)	$ 97,462.
Accrued expenses (unpaid bills)	-0-	9,789.00 (Page 10, Line 3)	9,789.
Total expenditures	$ -0- (Add Lines 8 & 9 above)	$ 107,251.60* (Add Lines 8 & 9 above)	$ 107,251. (Add Lines 8 & 9 above (Should equal Columns A + B)

STATEMENT OF CHANGES IN FINANCIAL CONDITION

11. Cash on hand at the beginning of this period	$ 22,675.54
12. Cash receipts this period (Line 4, column B above)	92,168.26
13. Cash payments this period (Line 8, column B above)	97,462.60*
14. Cash on hand at closing date (Lines 11 + 12 – 13 above)	17,381.20*
15. Outstanding debts (Line 2 + Line 9, of Column C above)	9,789.00
16. Surplus (if Line 14 is greater than Line 15, subtract Line 15 from Line 14)	$ 7,592.
17. Deficit (if Line 15 is greater than Line 14, subtract Line 14 from Line 15)	$ N/A

* Amendment being made to correct errors in addition only.

J.A. 353

This is the first report filed or if the last report was a post-election statement. Column A should be blank except for unpaid loans, bills or

NAME CALIFORNIANS FOR COM[illegible] N SENSE I.D. NUMBER (committee) 771393

Statement covers period from 1/1/79 through 6/30/79.

SCHEDULE A, FORM 420, 430 or 490

PART 2 – RECEIVED FROM OTHERS: (See information manual for directions and examples)

DATE	FULL NAME AND ADDRESS (Street City, State) OF CONTRIBUTOR*	OCCUPATION	EMPLOYER (IF CONTRIBUTOR IS SELF-EMPLOYED LIST STREET ADDRESS & CITY OF BUSINESS)	AMOUNT RECEIVED	CUMULATIVE AMOUNT
1/25	Glaser Brothers 3130 Leonis Blvd. Los Angeles, CA 90058	N/A	N/A	$ 32,500	$ 32,500
3/31	Brown & Williamson Tobacco Company 2000 Citizens Plaza Louisville, KY 40202	N/A	N/A *	300,000	300,000
3/31	Lorillard Company 666 Fifth Avenue New York, NY 10019	N/A	N/A *	3,300	3,300
3/31	Philip Morris, Inc. 100 Park Avenue New York, NY 10017	N/A	N/A *	380,000	380,000
3/31	R. J. Reynolds Tobacco Fourth and Main Streets Winston-Salem, NC 27102	Co. N/A	N/A *	682,000	682,000
			* Loans Forgiven See attachment for Schedule B Part		

Attach additional information on appropriately labeled continuation sheets.

SUBTOTAL (Carry with any additional Subtotals to line 3, part 3) $ 1,397,800

*If the contribution was made by an intermediary provide the information for both the intermediary and the principal contributor.

PART 3 – SUMMARY OF MONETARY CONTRIBUTIONS (See information manual for directions and examples)

1. RECEIVED FROM COMMITTEES THIS PERIOD (Part 1)	$ -0-
2. RECEIVED FROM COMMITTEES UNDER $50 THIS PERIOD (Not Itemized)	-0-
3. RECEIVED FROM OTHERS THIS PERIOD (Part 2)	1,397,80
4. RECEIVED FROM OTHERS UNDER $50 THIS PERIOD (Not Itemized)	-0-
5. TOTAL MONETARY CONTRIBUTIONS RECEIVED THIS PERIOD (Line 1 + 2 + 3 + 4. Enter this total on Line 1, Column B of Summary Page)	$1,397,80

J.A. 354

CALIFORNIANS F. . COMMON SENSE ID #771595

STATEMENT COVERS PERIOD FROM 1/1/79 Through 6/30/79

MISCELLANEOUS RECEIPTS

Name & Address	Description	Amount
Peninsula Bulletin 2332 University Ave. East Palo Alto, CA 94303	Check was voided but previously reported on 10/24/78 through 12/31/78 report	$ 450.00
Vicki L. Degheri 23892 Via El Rocio Mission Viejo, CA 92691	Refund	40.89
KNXT Channel 2 6121 Sunset Blvd. Hollywood, CA 90028	Refund	588.00
Woodward & McDowell 22 Battery Street, #404 San Francisco, CA 94111	Refund	5,674.16
Western International Media Corporation 8732 Sunset Blvd. Los Angeles, CA 90069	Refund	40,172.3
Di Salvo Trucking Co. 660 Mariposa Street San Francisco, CA 94107	Refund	60.5
Pacific Telephone San Francisco, CA	Refund	1,847.2
Merchandising Methods 274 Brannan Street San Francisco, CA 94107	Refund	400.0
U. S. Postal Service San Francisco, CA	Refund	542.4
Signal Data 3450 East Spring St. Long Beach, CA 90806	Refund	9,500.0
Abbey Rents 1550 South Maple Montebello, CA 90640	Refund	391.7
Miscellaneous	Refund	1.0
	TOTAL	59,668.3

J.A. 355

Office - Supreme Court, U.S.
FILED
NOV 15 1983
ALEXANDER L. STEVAS,
CLERK

No. 83-399

In the Supreme Court of the United States

OCTOBER TERM, 1983

PAUL LOVEDAY, ET AL., PETITIONERS

v.

FEDERAL COMMUNICATIONS COMMISSION, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE RESPONDENTS IN OPPOSITION

REX E. LEE
Solicitor General
Department of Justice
Washington, D.C. 20530
(202) 633-2217

BRUCE E. FEIN
General Counsel

DANIEL M. ARMSTRONG
Associate General Counsel

Federal Communications Commission
Washington, D.C. 20554

QUESTION PRESENTED

Whether the Federal Communications Commission correctly interpreted the sponsorship identification requirements of Section 317 of the Communications Act of 1934 (47 U.S.C. 317) and the Commission's regulations to allow stations broadcasting political advertisements to accept without extensive independent investigation the plausible representations of an advertiser that it is the real sponsor.

TABLE OF CONTENTS

Page

Opinions below 1

Jurisdiction 1

Statement 2

Argument 7

Conclusion 11

TABLE OF AUTHORITIES

Cases:

Albuquerque Broadcasting Co., 40 F.C.C. 1 (1946) 9

Alianza Federal de Mercedes v. *FCC*, 539 F.2d 732 8

Berenyi v. *Immigration Director*, 385 U.S. 630 10

KSTP, Inc., 40 F.C.C. 12 9

Red Lion Broadcasting Co. v. *FCC*, 395 U.S. 367 8

Udall v. *Tallman*, 380 U.S. 1 8

United States v. *L.A. Tucker Truck Lines, Inc.*, 344 U.S. 33 7

Voter, 46 Rad. Reg. 2d (P&F) 350 5

Page

Statutes and regulations:

Communications Act of 1934, 47 U.S.C. (& Supp. V) 301 *et seq.* :

47 U.S.C. 317 ..... 6, 7, 9

47 U.S.C. 317(a)(1) 2, 6

47 U.S.C. 317(b) 6

47 U.S.C. 317(c) 2, 5, 6, 8

47 U.S.C. 405 7

47 U.S.C. 507 6

Radio Act of 1927, § 17, ch. 169, 44 Stat. 1169 9

47 C.F.R. Pt. 73:

Section 73.1212 5

Section 73.1212(b) 2

Section 73.1212(e) 2

In the Supreme Court of the United States

OCTOBER TERM, 1983

No. 83-399

PAUL LOVEDAY, ET AL., PETITIONERS

v.

FEDERAL COMMUNICATIONS COMMISSION, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE RESPONDENTS IN OPPOSITION

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-34a) is reported at 707 F.2d 1443. The decision of the Federal Communications Commission (Pet. App. 35a-59a) is reported at 87 F.C.C.2d 492. The ruling of the Commission's Broadcast Bureau (Pet. App. 37a-59a) is reported at 87 F.C.C.2d 493.

JURISDICTION

The judgment of the court of appeals was entered on May 10, 1983. On August 3, 1983 Justice Brennan granted an extension of time in which to file a petition for a writ of certiorari to and including September 7, 1983, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. Section 317(a)(1) of the Communications Act of 1934, 47 U.S.C. 317(a)(1), requires broadcast stations to identify paid political advertisements as such and also to identify the sponsor. In addition, a licensee must make a reasonably diligent effort to learn from the "persons with whom it deals directly" the identity of the true sponsor (47 U.S.C. 317(c); 47 C.F.R. 73.1212(b)). The Commission's rules further provide that where an advertisement is placed by an agent acting "on behalf of another, and such fact is known or by the exercise of reasonable diligence * * * could be known to the station" the principal, rather than the agent, must be announced as the sponsor (47 C.F.R. 73.1212(e)).[1]

2. The ballot for the November 1980 general election in California included Proposition 10, which, if approved, would have required separate smoking and no-smoking areas in public places throughout the state (Pet. App. 2a-3a). On September 26 and October 3, 1980, Richard Kalish, a representative of petitioner Californians for Smoking and No Smoking Sections (also called "Yes on 10"), a group in favor of the Proposition, wrote to all California broadcast stations concerning recently broadcast political advertisements opposing the Proposition (Pet. App. 3a-4a, 78a-83a, 85a-90a). Stations broadcasting these advertisements had identified them as paid for by Californians Against Regulatory Excess ("CARE"). Kalish claimed that the tobacco industry was concealing the extent of its financial and other

---

[1] In the case of an advertisement sponsored by a political committee, the Commission's rules also require the licensee to obtain "a list of the [sponsor's] chief executive officers or members of the executive committee or of the board of directors" for inclusion in the licensee's public inspection file. If the advertisement is originated by a network, this list may be kept for public inspection at the network headquarters or in the affiliates' public files. 47 C.F.R. 73.1212(e).

involvement in the campaign against Proposition 10[2] and was using CARE as a "front" organization to purchase broadcast time for advertisements prepared by an adverstising firm hired by the industry (*id.* at 86a-87a). Kalish contended that CARE's most recent campaign financial disclosure statement revealed that the vast bulk of its funds came directly from the tobacco industry[3] and that the full extent to which tobacco money was financing broadcast advertising against Proposition 10 would become evident some 10 days before the election, when CARE made its next required filing with the California Fair Political Practices Commission (*id.* at 87a-88a). Kalish argued that broadcast stations were required under FCC rules to identify CARE's ads as "Paid for by the Tobacco Industry" (*id.* at 89a). As the court below observed (*id.* at 4a-5a), Kalish's allegations were not documented.

On October 2, 1980, David Bergland, the Chairman of the Board and President of CARE, sent all California broadcast licensees a letter (Pet. App. 91a-97a) in which he protested that it would be "inaccurate" if CARE's ads were labeled as those of the tobacco industry (*id.* at 96a). Bergland, who described himself as the National Chairman of the Libertarian Party, stated that he, the Secretary of the California Republican Party, and the president of a political campaign firm had organized CARE in the summer of 1980 for the general purpose of educating Californians

---

[2]Kalish asserted that tobacco interests had provided almost all of the money for an advertising campaign to defeat a similar proposition in 1978, and he referred to a pollster's conclusion that a backlash against this industry involvement had developed in the closing days of that campaign (Pet. App. 79a, 86a).

[3]Kalish said that the small amount of CARE's funds from other sources came as a result of a direct mail campaign financed at a loss by the tobacco industry for the sole purpose of making it appear that CARE was receiving "numerous small contributions" (Pet. App. 88a).

about excess government regulation and the specific purpose of opposing Proposition 10 (*id.* at 91-92a, 96a). While not denying that most of CARE's money came from the tobacco companies, he stated that his group was actively soliciting support and contributions from numerous groups and individuals throughout California (*id.* at 93a, 95a).

Bergland said that CARE had retained staff and consultants to draft advertising copy, but he stated that the copy was carefully reviewed by CARE's legal counsel and that no one, and "certainly not * * * any contributor," had been delegated editorial control over the ads (Pet. App. 94a-95a). He also described the effort of CARE's three organizers to form a board of directors representing the "industries most affected by Proposition 10" and including "leading citizens whose presence would indicate the breadth of opposition which we planned to mobilize" (*id.* at 93a).[4] Bergland assured the licensees that CARE was not a "front" for any person or group and maintained that the advertisements at issue should be identified as "Paid for by [CARE]" (*id.* at 92a-96a).

After receiving Kalish's letter of October 13, 1980, some licensees requested and received additional information from CARE's counsel (see Pet. App. 98a-102a). Apparently all licensees continued to identify the ads as paid for by CARE.

3. "Yes on 10" did not attempt in correspondence with the licensees to reply specifically to the statements contained in Bergland's letter. Instead, petitioner Paul Loveday, the Chairman of "Yes on 10," asked the Commission

---

[4]CARE's Board was said to include, among others, a past president of the American Lung Association of Los Angeles County, a Democratic California assemblyman, the former Republican State Controller, the State Director of the National Organization for Women, and the presidents of a number of California trade associations.

for an expedited ruling that under Section 317(c) of the Act, 47 U.S.C. 317(c), and 47 C.F.R. 73.1212 of the Commission's stations carrying CARE's ads must announce that they had been paid for by the tobacco industry.[5]

The Commission's Broadcast Bureau denied the requested ruling, holding that the licensees had been reasonably diligent in determining the sponsorship of the CARE advertisements (Pet. App. 37a-59a). Declining to "investigate the nature of political committee[']" advertisements (*id.* at 54a), the Bureau relied (*id.* at 50a-52a) on its earlier decision in *Voter*, 46 Rad. Reg. 2d (P&F) 350 (1979), which held that a licensee had acted reasonably in accepting a political committee's assurance that it maintained editorial control over advertisements opposing a ballot proposition. The Bureau noted that in *Voter* an opposing group had alleged that the ostensible sponsor was a "front" for a third party from whom the apparent sponsor admitted receiving substantial financial assistance (Pet. App. 50a-52a). The Bureau found no basis for requiring the stations involved in the present case to reject CARE's representations that it, and not the tobacco industry, exercised editorial control over the advertisements purchased in CARE's name (*id.* at 53a).

---

[5]In addition to repeating the allegations it had made to the licensees, "Yes on 10" for the first time purported to respond directly to the Bergland letter and included factual material that had not been presented to the licensees. The court of appeals disregarded "Yes on 10's" new submissions as irrelevant to the issue of the licensees' duties as a result of the information presented to them (Pet. App. 6a). Petitioners continue to seek to buttress their case by reliance on asserted facts and contentions that were never presented to the licensees. See, *e.g.*, Pet. App. 60a-77a, 103a-110a.

The full Commission found the Bureau's decision correct and denied administrative review (Pet. App. 35a-36a).[6]

4. The court of appeals affirmed (Pet. App. 1a-34a). It noted that the Commission's interpretation of Section 317 and the agency's implementing regulations were entitled to deference (*id.* at 11a). The court found support on the face of the statute for the Commission's decision not to require licensees to go beyond the apparent sponsor's assurances and undertake an independent investigation of a complainant's allegations. The court observed (*id.* at 12a-13a) that while Section 317 refers explicitly to situations in which a putative political advertiser may not be the true sponsor (see 47 U.S.C. 317(a)(1)), the statute defines the licensee's obligation to obtain information regarding sponsorship as extending only to "persons with whom [the licensee] deals directly" (see 47 U.S.C. 317(c)).[7] The court also carefully examined the legislative history of Section 317 and found no reason to conclude that Congress desired to impose upon licensees a duty to "go behind the information it receives" from the ostensible sponsor in order "to guarantee its accuracy" (Pet. App. 13a-25a & n.18). The court added (*id.* at 29a-30a) that compelling broadcasters to act as "private detectives" to resolve conflicting allegations about the true sponsor of political advertisements carried by their

---

[6]The Commission did modify the Bureau's decision to the extent that it could be read to say that "Yes on 10" had to present "conclusive" evidence of the tobacco industry's editorial control over the CARE ads before the licensees could be found to have acted unreasonably in accepting CARE's denial of such industry control (Pet. App. 35a-36a, 53a).

[7]Another provision of Section 317(c), which refers to a station's duty to obtain information from "its employees," is not in issue here. That provision applies, for example, when a record company has paid a disc jockey to play a certain record. This requirement is an outgrowth of the "payola" scandal in the late 1950s. 47 U.S.C. 317(b), 508; see also Pet. App. 19a-20a.

stations would likely impose a burden on political speech and would create an "administrative quagmire" for the Commission (*ibid.*). Before a statute is construed to have such effects, the court said, there must be "a far clearer congressional directive that stations affirmatively seek out true sponsors" (*id.* at 33a).

ARGUMENT

The decision of the court of appeals is correct and does not conflict with any decision of this Court or any other court of appeals. Further review by this Court is not warranted.

1. Petitioners first argue that, under Section 317 and the Commission's regulations, when a political committee buys advertising time with funds contributed by others, the true sponsors are the contributors and not those who decided to purchase the broadcast time and exercised editorial control over the ads. Petitioners therefore contend that the contributors must be announced as the sponsors (Pet. 25-28).

This argument was not made to the Commission and thus may not be raised for the first time on judicial review. 47 U.S.C. 405; see, *e.g.*, *United States* v. *L.A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 37 (1952). Before the Broadcast Bureau, petitioners argued that an aggregate of facts, including the tobacco industry's funding of CARE, compelled the conclusion that the industry sponsored the ads. See, *e.g.*, Pet. App. 38a-39a. On administrative appeal to the full Commission, petitioners made this and other arguments but never maintained that mere funding of a political committee by contributors made those contributors as a matter of law the sponsors of the committee's

advertisements. See J.A. 177-178.[8] The court of appeals properly declined to review this issue. Without the benefit of a decision by that court or the administrative agency with expertise in this field, this Court should likewise deny review.

2. Petitioners also argue that Section 317(c), which requires that licensees use "reasonable diligence" to identify the sponsor of an advertisement, actually obligates them "to exercise the 'highest degree of diligence,' " and to undertake " 'arduous' investigation" (Pet. 29). Alternatively, petitioners appear to argue that under any interpretation of the reasonable diligence standard, the licensees here failed to perform their statutory duty of inquiry (Pet. 29-31). Neither argument is sound.

The Commission's position is that a licensee's duty under Section 317(c) to inquire about the identity of the sponsor of a broadcast advertisement is satisfied when the licensee obtains "facially plausible information" from the apparent sponsor (Pet. App. 11a, 24a & n.17). The court of appeals properly gave deference to the Commission's construction of its own statute and regulations (*id.* at 11a). See *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 381 (1969); *Udall* v. *Tallman*, 380 U.S. 1, 16-17 (1965).

The starting point for inquiry, of course, is the text of the statute. Section 317(c) provides that the licensee must obtain information regarding sponsorship from "persons with whom it deals directly." As the court of appeals observed (Pet. App. 12a-13a), this suggests that a licensee is entitled to rely on information obtained from the apparent sponsor.

---

[8]Petitioners' vague assertion to the Commission that the Bureau "erred in its assumptions with respect to the meaning of 'Sponsor' and 'control' " (J.A. 177) did not fairly present to the Commission the purely legal issue now raised. *Alianza Federal de Mercedes* v. *FCC*, 539 F.2d 732, 739 (D.C. Cir. 1976).

The legislative history, which was exhaustively canvassed by the court of appeals (Pet. App. 13a-25a), supports this conclusion. Petitioners claim that the legislative history of Section 17 of the Radio Act of 1927, ch. 169, 44 Stat. 1169, the predecessor of Section 317, shows an intent "to disclose to listeners the *source* of broadcast advertising" (Pet. 34; emphasis in original). However, as the court of appeals showed (Pet. App. 13a-17a), Section 17 was meant to impose "only a very limited obligation upon broadcasters: to announce that a program had been paid for or furnished to the station by a third-party and to identify that party" (Pet. App. 17a).

Petitioners contend (Pet. 35-42) that the 1960 amendment of Section 317 incorporated the Commission's prior interpretations of that provision, which, according to petitioners, required licenses to look beyond an apparent sponsor's plausible representations regarding sponsorship. In fact, however, the Commission has never required such inquiry either by regulation or ruling.[9]

---

[9]What petitioners describe as the "1944 Rule" (Pet. 35), which appears in Pet. App. 20a-21a n.15, required that a licensee disclose what it already knew about an agency relationship, but that rule did not impose any burden on a licensee to investigate whether such a relationship existed (Pet. App. 22a-23a). *Albuquerque Broadcasting Co.*, 40 F.C.C. 1 (1946), indicated that a licensee had a duty under certain circumstances to make some inquiry, but the extent of that inquiry was not specified. In particular, that decision did not say that, once a station's inquiry produced plausible information from the apparent sponsor supporting its claim to be the true sponsor, the station still had to continue the investigation. Contrary to petitioners' unsupported assertion (Pet. 38 n.12), the Commission's so-called NAM (National Association of Manufacturers) Opinions did not involve a situation in which stations had facially plausible information supporting a conclusion that the apparent source of certain broadcasts, station WTTG, was the real source. WTTG offered stations summaries of certain Senate hearings for a quoted price of $475 per program, but subsequently a known representative of the NAM told station management that the films of the hearings would be available free of charge, and the films then arrived at the station postpaid and without cost. *KSTP, Inc.*, 40 F.C.C. 12, 13-14 (1958).

In addition to the statutory language and legislative history, the court of appeals found other persuasive reasons why "[a] duty to undertake an arduous investigation ought not casually be assigned to broadcasters" (Pet. App. 11a). Petitioners do not dispute the court's conclusion that their interpretation of the statute would impose, at a minimum, a "burden, [an] expense, and [a] delay upon political speech" and could choke off altogether the broadcast of many political messages (*id.* at 29a-31a). As the court of appeals observed (*id.* at 31a), "[q]uite aside from any First Amendment difficulties that such a rule might implicate," it is unlikely that Congress intended such results.[10]

Finally, petitioners' challenge to the Commission's application of its own diligent inquiry standard (Pet. 29-31) does not warrant further consideration. The Commission twice examined the facts presented to the licensees by petitioners and CARE and found that CARE's assurances were sufficient. The court of appeals carefully re-examined the same record and found no error. There is no reason for this court to review this fact-bound question. Cf. *Berenyi* v. *Immigration Director,* 385 U.S. 630, 635-636 (1967).

---

[10]As the court below observed (Pet. App. 31a n.22), information regarding the makeup and financing of groups like CARE is generally available to the public. CARE's campaign financial disclosure statements are periodically filed with the California Fair Political Practices Commission (Pet. App. 100a), and information about CARE's composition is available in the public inspection files of the California stations that carried CARE's advertisements. See p. 2 n.1, *supra.*

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

REX E. LEE
Solicitor General

BRUCE E. FEIN
General Counsel

DANIEL M. ARMSTRONG
Associate General Counsel

Federal Communications Commission

NOVEMBER 1983

DOJ-1983-11

Office - Supreme Court, U.S
FILED
NOV 30 1983
ALEXANDER L. STEVAS,
CLERK

NO. 83-399

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

PAUL LOVEDAY, ET AL., PETITIONERS

v.

FEDERAL COMMUNICATIONS COMMISSION, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

REPLY BRIEF FOR THE PETITIONERS

Paul L. Loveday
55 Francisco, 7th Floor
San Francisco, CA 94133
(415) 955-0733
Attorney for Petitioners

TABLE OF CONTENTS

		Page
I.	FIRST QUESTION PRESENTED BY PETITIONERS	2
	A. Rather Than "Decline To Review This Issue," The Court Of Appeals Ignored This Issue.	3
	B. Petitioners Raised The 100% Funding Issue Before The Stations, Before The Commission's Broadcast Bureau, And Before The Full Commission.	4
	C. Even If Petitioners Had Not Raised The 100% Funding Issue Before The Commission, The Court Of Appeals Was Nevertheless Required To Review The Issue.	9
	1. Petitioners are not required to raise an issue before the Commission where the Commission has already made known its views to the contrary.	9

TABLE OF CONTENTS
(Continued)

		Page
2.	49 U.S.C. 405 commands only that the Commission be afforded the opportunity to pass on issues. There is no requirement that this opportunity be afforded in any particular manner or by any particular party.	10
3.	Section 405 is not to be interpreted mechanically.	12
D.	No Defect In Petitioners' Position On The 100% Funding Issue Has Been Identified.	16
II.	THE SECOND QUESTION PRESENTED BY PETITIONERS	17

TABLE OF AUTHORITIES

	Page
CASES AND ADMINISTRATIVE ADJUDICATIONS:	
Action for Children's Television v. FCC, 564 F2d 458, 469 (D.C. Cir. 1977)	9
Albuquerque Broadcasting Co., 40 FCC 1 (1946)	17
Allianza Federal de Mercedes v. FCC, 539 F.2d 732 (D.C. Cir. 1976)	14
Bilateral Bicultural Coalition v. FCC, 492 F.2d 656 (D.C. Cir. 1974)	14
Bilaterial Bicultural Coalition v. FCC, 595, F.2d 621, 193 U.S. App. D.C. 236 (D.C. Cir. 1978)	14
Buckeye Cablevision, Inc. v. United States, 438 F.2d 948, 951 (D.C. Cir. 1971)	12
Joseph v. FCC, 404 F.2d 207 (1968)	12,13
McKart v. United States, 395 U.S. 185, (1969)	12,15
Office of Communications of United Church of Christ v. FCC, 465 F.2d 519 (1972)	10

TABLE OF AUTHORITIES
(Continued)

	Page
United States v. L.A. Tucker Truck Lines, Inc., 344 U.S. 33 (1952)	12
V.O.T.E.R., 46 RR2d (P&F) 350 (1979)	7,8,9, 11,16
Way of Life Television Network, Inc. v. FCC, 593 F.2d 1356, 1360 (D.C. Cir. 1979)	10
Wong Wang Sung v. McGrath, 339 U.S. 33	12

STATUTES AND REGULATIONS

Communications Act of 1934, Section 317, 47 U.S.C. 317	2
Section 405, 47 U.S.C. 405	3,4,9, 10,11
47 CFR 73.1212	2

NO. 83-399

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

PAUL LOVEDAY, ET AL., PETITIONERS

v.

FEDERAL COMMUNICATIONS COMMISSION, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

REPLY BRIEF FOR THE PETITIONERS

Instead of demonstrating that review by this Court is unwarranted, the Solicitor General's Opposition Brief[1] underscores the critical need for judicial review in this case.

[1] All references to the Solicitor General's Opposition Brief will consist of the appropriate page number or numbers, preceded by the letters "Opp.".

I. FIRST QUESTION PRESENTED BY PETITIONERS

Petitioners argued in their Petition for a Writ of Certiorari that, pursuant to Section 317(a)(1) of the Communications Act and the Commission's Regulations, the undisputed fact of 100% funding by the tobacco industry of No on 10 ads is sufficient by itself to require identification of the tobacco companies as the sponsor of those advertisements.[2] Rather than attempt to identify any defect in Petitioners' legal analysis, the Solicitor General incorrectly alleged that Petitioners had not made this argument to the Federal Communications Commission, argued that Petitioners were

---

[2] The Solicitor General's Brief greviously mistates (Opp. 7) Petitioners' argument. Petitioners do not make the absurd argument that "when a political committee buys advertising time with funds contributed by others, the true sponsors are the contributors and not those who decided to purchase the broadcast time and exercised editorial control over the ads." Petitioners' argument is that Congress, in drafting Section 317(a)(1), and the Commission, in drafting 73.1212(a) and (e), assumed that if four companies in one industry contribute 100% of the cost of a political advertising campaign in proportion to their respective shares of the U.S. market, those companies control that advertising and no further demonstration of editorial control is necessary.

therefore foreclosed by 47 U.S.C. 405[3] and the doctrine of exhaustion of administrative remedies from raising this argument for the "first time" on judicial review, and contended that "the court of appeals properly declined to review this issue." (Opp. 7-8)

A. Rather Than "Decline To Review This Issue," The Court Of Appeals Ignored This Issue.

Petitioners raised the 100% funding issue before the Court of Appeals. Like the Solicitor General, the Commission made no attempt to contest the merits of Petitioners' argument in the Commission's Opposition Brief before the Court of Appeals, but merely argued that 47

---

[3] 49 U.S.C. 405 provides in pertinent part:

> The filing of a petition for rehearing shall not be a condition precedent to judicial review of any such order. . . except where the party seeking such review . . . relies on questions of fact or law upon which the Commission, or designated authority within the Commission, has been afforded no opportunity to pass.

U.S.C. 405 precluded Petitioners from raising the issue. Petitioners, in their Reply Brief before the Court of Appeals, demonstrated that they had indeed raised the issue before the Commission and demonstrated that, as a matter of law, the Court of Appeals should review the issue even if the issue had not been raised before the Commission.

The Court of Appeals did not "decline" to review the issue. Its 34 page opinion contained no reference to 49 U.S.C. 405 or the doctrine of exhaustion of administration remedies, no finding that Petitioners did not raise the issue before the Commission, and no discussion of Petitioners' legal argument that the Court of Appeals should review the issue even if it had not been raised before the Commission. The Court of Appeals merely ignored the 100% funding issue.

B. Petitioners Raised The 100% Funding Issue Before The Stations, Before The Commission's Broadcast Bureau, And Before The Full Commission.

The 100% funding issue was raised before the Commission.

Petitioners' September 26, 1980 letter to all California broadcast stations (attached as App. D, pp. 78a-83a to the Petition for a Writ of Certiorari) argued that the mere fact the money used by No on 10 to purchase No on 10 messages came virtually exclusively from the tobacco industry resulted in the stations' obligations to identify the tobacco industry as sponsor of those ads. Petitioners' October 3, 1980 letter to the stations (App. D, pp. 85a-90a) set forth additional facts with respect to the tobacco industry's motives and methodology for disguising its funding of the No on 10 campaign, but argued that such virtual 100% funding was the basis of the stations' obligations to identify the tobacco industry as sponsor.

Petitioners argued in their October 16, 1980 Request for Declaratory Ruling to the Commission that there were two independent reasons why the tobacco industry must be identified as sponsor of No on 10 ads:

> The Tobacco Industry has caused its agent and alter ego, deceptively named Californians Against Regulatory Excess, (hereinafter sometimes called "Excess"), to purchase massive amounts of air time from California radio and television stations for advertisements urging a "no" vote on Proposition 10. Virtually one hundred percent of such air time has been paid for by moneys transferred to Excess from the four largest cigarette manufacturers, each contributing according to its share of the tobacco sales market. All four cigarette manufacturers are located outside of California. Because these four largest cigarette manufacturers (representing almost 90% of total cigarette sales) are acting in concert and contributing according to their market shares, the campaign to defeat Proposition 10 is being financed by the Tobacco Industry operating in unison through its agent and alter ego Excess.
>
> The Tobacco Industry exercises editorial control over No on 10 advertising. (J.A. 20) (Emphasis in original)

If the Commission did not understand that Petitioners were arguing that the mere fact

that 100% of the cost of No on 10 advertising was paid for by the tobacco industry was sufficient by itself to require identification of the tobacco industry as sponsor, the tobacco industry's attorneys understood the argument and attempted to rebut the argument in their Opposition Brief to the Commission, thereby clearly putting the question at issue:

> Californians Against Regulatory Excess does not deny that the funding that has been received so far come (sic) from tobacco companies and has issued two releases on these facts. (Californians Against Regulatory Excess) does not believe that the source of contributions alone dictates the identification requirement. (J.A. 144)

The tobacco industry attorneys cited V.O.T.E.R., 46 RR2d (P&F) 350 (1979) as authority for its position on the 100% funding issue:

> Less than a year ago, the Commission had occasion to consider by way of a complaint the precise issue raised here.

> In, V.O.T.E.R., supra, the complaint alleged that a group named "Westchester Citizens Against Government Takeover," ("Citizens"), (a committee organized to oppose a county ballot proposition that proposed that the government purchase the privately-owned public utility company, Consolidated Edison Company of New York) was not in fact the true sponsor. The facts in that case were on all fours with this case: (a) Consolidated Edison contributed a substantial amount and percentage of the total contributions to Citizens; (b) the complaint alleged that Citizens was an agent of Consolidated Edison, by virtue of these contributions; and (c) Citizens responded that it was a bona fide group and had paid for and controlled the content of its advertisements. (J.A. 142) (Emphasis added)

Petitioners again raised the 100% funding issue in their Application for Review of the Broadcast Bureau's decision to the full Commission by pointing out that the Broadcast Bureau had erred with respect to the meaning of the word "sponsor". (J.A. 177)

C. Even If Petitioners Had Not Raised The 100% Funding Issue Before The Commission, The Court of Appeals Was Nevertheless Required To Review The Issue.

1. Petitioners are not required to raise an issue before the Commission where the Commission has already made known its views to the contrary.

Even if the Petitioners had not presented the 100% funding issue to the Commission, the issue would still be ripe for judicial review since the Commission had already made known its views contrary to Petitioners' position. See Action for Children's Television v. FCC, 564 F.2d 458, 469 (D.C. Cir. 1977).[4] The Commission had already held in V.O.T.E.R, supra, that the mere showing that the opponent of a ballot proposition in New York had received all or a substantial part of its

[4] In Action for Children's Television v. FCC, the complainants admitted they had not raised before the Commission an issue on which they sought judicial review. The D.C. Circuit held, however, that the complainants were not foreclosed by 49 U.S.C. 405 from raising the issue before it because of the "concrete indication" that raising the issue before the Commission would have been futile. That "concrete indication" was the fact that the Commission had already made known its views to the contrary on the issue in another proceeding.

funding from Consolidated Edision Company was insufficient to require stations to identify Consolidated Edison as the sponsor of television and radio ads opposing the proposition. Therefore, it would have been (and indeed was) futile for Petitioners to raise the 100% funding issue before the Commission. Petitioners are not foreclosed from judicial review for failure to raise an issue before the Commission if that effort would have been futile. Way of Life Television Network, Inc. v. FCC, 593 F.2d 1356, 1360 (D.C. Cir. 1979).

2. 49 U.S.C. 405 commands only that the Commission be afforded the opportunity to pass on issues. There is no requirement that this opportunity be afforded in any particular manner or by any particular party.

The D.C. Circuit's analysis of 49 U.S.C. 405 in Office of Communication of United Church of Christ v. FCC, 465 F.2d 519 (1972) demonstrates that it was improper for the same court to ignore the 100% funding issue in the instant case. In Office of Communications of United Church of Christ the Commission argued that none of the arguments raised in the Church's

brief to the D.C. Circuit had been raised before it and that the Church was therefore foreclosed from making those arguments by Section 405 of the Communications Act. The D.C. Circuit responded that:

> On its face, Section 405 commands only that the Commission be afforded the opportunity to pass on issues. There is no requirement that this opportunity be afforded in any particular manner, or by any particular party. 465 F.2d at 523.

Since the issue raised by the Church on appeal was discussed by the Commission minority in its dissent, the D.C. Circuit held that the purposes of the statute had been fulfilled.

In the instant case, even if the 100% funding issue was not raised before the Commission by the Petitioners, it was clearly raised before the Commission by the tobacco industry attorneys' in their Opposition Brief before the Commission and by the parties in V.O.T.E.R. The Commission had been afforded an opportunity to pass on the 100% funding issue. The purposes of Section 405 have been ful-

filled. See also Buckeye Cablevision, Inc. v. U.S., 438 F.2d 948, 951 (D.C. Cir. 1971)

3. Section 405 is not to be interpreted mechanically.

Section 405 is not inflexible and is not to be interpreted mechanically.[5] In Joseph v. FCC, 404 F.2d 207 (1968) the D.C. Circuit permitted arguments to be raised before it that were not raised before the Commission, stating:

> The question whether there has been adequate compliance with the prescribed prerequisites to judicial review cannot be answered mechancially. It involves consideration of the purpose of requirement, the type of issue, and the nature of the party. 401 F.2d at 210.

---

[5] The nonstatutory doctrine of exhaustion of administrative remedies is also not to be interpreted mechancially. This Court has observed that "the doctrine is applied in a number of different situations and is, like most judicial doctrines, subject to numerous exceptions. Application of the doctrine to specific cases requires an understanding of its purposes and the particular administrative scheme involved." McKart v. United States, 395 U.S. 185, at 193. This is illustrated by comparing the case cited by the Solicitor General (Opp. 7), United States v. L.A. Tucker Truck Lines, Inc., 344 U.S. 33 (1952), with a case with an almost identical factual situation but with a different result -- Wong Wang Sung v. McGrath, 339 U.S. 33.

The nature of the party is significant in this case. Exactly as in Joseph v. FCC, Petitioners in the instant case "do not have the same sort of Washington representation to uncover threats to their interest, or deploy apparatus to combat them, as do parties whose interest is economic". Joseph v. FCC, 401 F.2d at 210. As stated in Loveday's Declaration attached as Exhibit A to Petitioners' Reply Brief before the Court of Appeals, Petitioners did not have adequate financial resources to retain an attorney. Consequently, Petitioner Loveday represented them pro bono and pro se. Loveday is a business lawyer who does not handle litigation. At the time this matter was before the Commission he had never before handled a matter before an administrative agency or an appellate court. He believed his Application for Review exhaused all administrative remedies. He was never asked by the Commission to elaborate on his identification of the Broadcast Bureau's errors.

The type of issue is significant. Petitioners argument that the Commission's own regulations state that the "sponsor" of an advertisement is the party which "pays for" the advertisement. Once put on notice by the Application for Review that it had erred with respect to the meaning of the word "sponsor", it was reasonable to assume that the Commission could find the definition of the word in its own regulations.[6]

The purpose of Section 405 was fulfilled in that the Commission was afforded an opportunity to pass on the issue. This case is unlike Allianza Federal de Mercedes v. FCC, 539 F.2d 732 (D.C. Cir 1976). In that case, Allianza Federal argued to the Commission that an Albuquerque station's license should not be

---

[6] Moreover, Bilateral Bicultural Coalition v. FCC, 492 F.2d 656 (D.C. Cir. 1974) and its successor Bilateral Bicultural Coalition v. FCC, 595 F.2d 621, 193 U.S. App. D.C. 236 (D.C. Cir. 1978) (en banc) require the Commission to make its own inquiry in matters such as this case where Petitioners have limited resources and have few procedural tools available. Such a duty to make its own inquiry includes the duty to perform some legal analysis.

renewed for two very specific and limited factual reasons-- namely because the Albuquerque licensee allegedly failed to present programs (i) on discrimination against Mexican-Americans and (ii) on the question of whether Mexican-Americans were illegally deprived of Spanish land grants. On appeal to the D.C. Circuit, Allianza Federal made an entirely new factual allegation not made before the Commission-- namely, that the station allocated only a minuscule amount of its public interest programming to serving the needs of Albuquerque's 40% Mexican-American population and, therefore, its programming was prima facie inconsistent with the public interest. The instant case is substantially different. No new factual allegations were presented by Petitioners in the instant case to the Court of Appeals which were not presented to the Commission.[7]

---

[7] This Court has indicated that the doctrine of exhaustion of administrative remedies may be inapplicable if all facts have been put before an administrative agency and only a legal argument with respect to statutory interpretation has not been raised before that agency. McKart v. United States, 395 U.S. at 198 (1969).

D. No Defect In Petitioners' Position On The 100% Funding Issue Has Been Identified.

The 100% funding issue should be reviewed by this Court because (i) the issue has not yet been judicially reviewed; (ii) because the issue has received no analysis from the Commission, and (iii) no defects in the merits of Petitioners' position have been identified by the tobacco industry attorneys, the Commission, the Court of Appeals or the Solicitor General.

The Commission's holding with respect to the 100% funding issue in V.O.T.E.R. was conclusionary and made without analysis. No reasons were given by the Commission for its arbitrary holding.

The tobacco industry attorneys in the instant case gave no reasons -- other than their reliance on V.O.T.E.R. -- for their position on the 100% funding issue. The Commission's decision in the instant case arbitrarily relied on V.O.T.E.R. During judicial review, neither the Commission nor the Solicitor General addressed the merits of the

issue. The Court of Appeals did not address the issue at all.

Given the fundamental importance of this issue in countless ballot proposition campaigns throughout the country, this Court should not allow the issue to be dismissed without judicial review.

II. THE SECOND QUESTION PRESENTED BY PETITIONERS

The Solicitor General does not deny and apparently concedes (at Opp. 9) that the 1960 amendment of Section 317 incorporated the Commission's decisions in Albuquerque Broadcasting Co., 40 FCC 1 (1946) and the so-called NAM Opinions.

Even if it were true, the Solicitor General's overstatement (Opp. 9 n. 9) that Albuquerque Broadcasting did not identify the extent of stations' duty of investigation would be irrelevant to the instant case since the 144 stations made no investigation at all, and since Albuquerque Broadcasting required an "independent" and "arduous" investigation by stations and required that stations take "all reasonable measures" to discover the "source" of funds used by the apparent sponsor.

The Solicitor General erroneously asserts (Opp. 9, n. 9) that the NAM Opinions did not involve a situation in which stations had facially plausible information supporting a conclusion that the apparent source of certain broadcasts, station WTTG, was the real source. The script accompanying the broadcast materials stated only that the materials were produced by WTTG. The stations did indeed have information in their files which, had they fulfilled their reasonable diligence obligations, would have led to the conclusion that WTTG was not the true sponsor. The stations in the instant case, however, had much more persuasive information (in the form of letters from Petitioners) that Californians Against Regulatory Excess was not the true sponsor.

The crucial aspect of the NAM Opinions, however, is the holding that, with respect to broadcast material on controversial or political issues, the "highest degree of diligence" is required by the station to "ascertain" the actual source. 40 FCC at 14.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

PAUL L. LOVEDAY
November 29, 1983